Supreme Court, U.S.
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In the SUPREME COURT of the UNITED STATES October Term, 1992

LYNN JOHNSTON, Petitioner,

vs.

ZEFF AND ZEFF P.C. (I.D. 089251), **HARRIET M. MORMAN** (P28239), **ROBERT ZEFF** (P22704) (a/k/a A. ROBERT ZEFF), **MICHAEL T. MATERNA** (P22814), and the firm or association d/b/a **ZEFF AND ZEFF & MATERNA**, and the **STATE BAR OF MICHIGAN** (a private, non-profit association of lawyers), and **RANDY BENEDETTI** (a/k/a RANDY BENNEDETTI) (PD #1042), **BENNETT INVESTIGATIVE SERVICES**, and **FRED A. HOLSEY**, and **THE STATE OF MICHIGAN**, and **THE MICHIGAN STATE POLICE** (a/k/a MICHIGAN DEPARTMENT of STATE POLICE), Jointly and Severally, Respondents.

Petition for a Writ of Certiorari to the Michigan Supreme Court

For Petitioner: Lynn Johnston, pro per, Box 2439, Ann Arbor, MI 48106 (no phone number)

QUESTIONS PRESENTED FOR REVIEW

ONE. Whether it is repugnant to the integrity of the Courts, the right to petition for redress of grievances, due process and equality before the law, and Michigan Constitution, Art. IV, §35 requiring the publication of judicial opinions, for the Michigan Supreme Court to ignore and refuse, neither granting nor denying Petitioner's "Preliminary Motion for Authentication of Certain COA Orders" etc., upon prima facie evidence that such ORDERS and OPINION are fraudulent interlopers drafted by one of the pro per legal malpractice Defendants abborgating the doctrine of stare decisis and in effect setting new stardards and procedures in 21 areas of law, but designated as "NOT FOR PULBICATION"?

TWO. Whether the County Clerks' statutory practice of demanding, collecting, and forwarding costs or fess accruing to the retirement compensation of Judges as a condition of citizens' access to Judicial Branch process, is repugnant to **(A)** the state and federal right to petition for redress of greivances; and/or **(B)** the Michigan Constitution Art. VI, §7, requiring Judicial Branch money collections be delivered to the State Treasurer and credited to the General Fund, and §17, prohibiting payment of judicial compensation arising from the amount of judicial activity, or measured by the fees, or moneys received related to such office?

THREE. Whether the Judicial Branch practice of directing complaints for money damages against the state or its agencies out of the County Court of general jurisdiction, to the Executive Branch "Court" of Claims wherein Judicial Branch Judges on temporary assignment or appointment to office hear cases under non-neutral, inequitable statutory rules without a jury or independent power to enter judgments opposed by the Defendant, is repugnant to the independence of the judiciary, the separation of powers, trial by jury, due process, equality before the law, the limitation of powers of appointment to office under Michigan Constitution Art. VI, §27, and historical precedents holding state officials liable against continuing statutory Honesty and Performance Bonds upon the general verdict of a jury?

FOUR. When Petitioner meets all statutory criteria for taking judgment, whether it is repugnant to due process and equality before the law for the Court to provide a special, not-for-publication exemption benefit for Defendant association State Bar of Michigan, absolving it from the well-settled default judgment consequences of the failure to file the statutorially required "Motion to Set Aside Default Entry WITH Affidavit Specifying a Definate and Meritorious Defense" as a precondition of proceeding, by holding that the trial court "implicitly" granted such a motion "by" granting another motion instead?

FIVE. Whether the principles of equal compensation for equal work, equality before the law and due process can be suspended by State Court Judges against non-Bar-member pro per litigants undertaking or assuming the burdens and benefits of proceeding as "attorneys-in-fact," when statutes providing for just compensation in the nature of attorney fees and costs as a consequence of prevailing **(a)** on the merits of a suit, **(b)** in motion hearings, or **(c)** as a result of an adversary's bad faith practices are denied to them, but freely ordered paid to pro per legal malpractice Defendants; and if so, in light of the litany of bad faith, vexatious conduct undertaken against Petitioner per per, what means should be used to prevent encouragement of such harassment or imprudent conduct and assure the integrity of the legal process?

SIX. Whether it is repugnant to the right to neutral courts, due process, equality before the law, meaningful petitioning for redress of grievance, and relevant statutory provisions in a suit in which the substantial assets include a 10 million dollar legal malpractice policy, for Petitioner to be Denied on friday, and obstructed the next monday from entry and collection of a Judgment by Default for Defendants' failure and refusal to comply with Court-Ordered answers to interrogatories, and attendance for depositions and production of documents, by Defendants' back-dating and speedy pro-

curement of a Court Order making one of such pro per legal malpractice Defendants "Plaintiff's Attorney" with his "Attorney Lien" placed between Plaintiff and her collection of any subsequent Entry of Judgment, and their filing, within 3 days thereafter, of a motion for an Order imposing an improper and insurmountable surety bond (after the close of discovery) which resulted in dismissal with prejudice?

SEVEN. Whether a suitor in pro per can be made to suffer:

(a) an order from the bench that prosecution of the suit pro per absent any misconduct will be terminated in 30 days;

(b) denial of a protective order absent any examination of relevant evidence for remedial measures against physical and legal abuse by pro per legal malpractice Defendants;

(c) entertainment of the legal malpractice Defendants' motions prior to notice and service of the relevant documents;

(d) the hand-selection, when assignment by lot is required by law, of a nortorious special "visiting" judge, who failed and refused to visit the County of jurisdiction, exclusively hearing the case in his distant County absence of an Order changing venue;

(e) denial of Petitioner's court access for numerous pending motions from early April to mid-December, 1989 while accomodating Defendants' motions within a few days;

(f) the failure and refusal to either grant or properly dispose of numerous motions including those for court process necessary for procurement of relevant discovery of medical/treatment records from uncooperative third parties;

(g) allowing pro per legal malpractice Defendants to produce and not file important orders against themselves with denial of all efforts to provide for corrective measures; and

(h) the Court's bestowal an order of Summary Judgment upon the detective Defendants prior to the close of discovery and resolution of both the law and the facts in controversy,

(A) without identification of the same, in light of the whole case, as evidence of a pattern of vexation, abuse of discretion and invidious discrimination, and

(B) without repugnancy to state and federal constitutional and statutory rights to prosecute or petition one's own cases for redress of grievances in a neutral court, with due process and equality before the law?

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OPINIONS BELOW

The March 29, 1993 Order of the Michigan Supreme Denying Leave to Appeal (#94974) will be reported as **Johnston v Zeff et al, 442 Mich 875 (1993)** and is found in **Appendix A.** Of the 4 related motions, the "Preliminary Motion for Authentication of Certain Court of Appeals Orders" and "Motion to Waive Fees and Costs" were neither Granted nor Denied, and the Motions to Recuse the Justice married to Defendant-Respondent Zeff's attorney, and the Justice involved in public spectacles with Trial Court Judge Talbot were both Denied.

The purported Order and Opinion of the Michigan Court of Appeals (#131-465) in response to a timely Appeal of Right filed on August 2, 1990, was computer-dated July 14, 1992 and designated as "NOT FOR PUBLICATION" in an unsigned cover letter. They are each faithfully reproduced in **Appendix B.** The timely subsequent REQUEST FOR PUBLICATION was Denied November 10, 1992.

The Orders / Opinions of the Trial Court (#88-4955-NM) which dispose of all 4 categories of Defendants-Respondents are not reported, and are reproduced in **Appendix B.**

The MOTION FOR REHEARING (#131-465) at the Michigan Court of Appeals was Denied September 17, 1992 and not reported. It is reproduced in **Appendix C.**

Related Opinions

The matter of **Johnston v Washtenaw County Circuit Court Clerk, et al/Complaint for Mandamus**, alleging refusal of services and improper action in the clerk's office, was an Original Action filed in the Michigan Court of Appeals (**#105-219**) April 3, 1989 and Denied August 8, 1989. It is not reported. A petition for review in the Michigan Supreme Court was filed August 16, 1989 and Denied March 30, 1990. The related Motion for Waiver of Fees and Costs was Granted. Reconsideration was Denied June 26, 1990. The matter is referenced as **#86895** and reported at **434 Mich 889 (1990)**. A petition for review in the US Supreme Court was filed September 24, 1990 (**#90-5832**) and Denied November 13, 1990. The related Motion for Waiver of Fees and Costs was Granted. The reported is found at **498 US 971 (1990)**.

Another related matter, **Johnston v Washtenaw County Circuit Court Judge (Deake)/Complaint for Injunctive & Declaratory Relief** (**#89-CV-71137-DT**) relative to the imminent termination of the right to prosecute one's own cause pro per in the "Zeff" legal malpractice suit (#88-4955-NM), was filed in US District Court April 13, 1989 and Dismissed April 21, 1989. The related Petition for Waiver of Fees and Costs was Granted at the time of filing and the US Marshal served the process without prepayment. The matter is not reported, however a copy of such civil rights suit is found in the Court of Appeals Appendix (#131-465).

Another related matter, **Johnston v Attorney Grievance Commission/Complaint for Mandamus (#92795)**, was timely filed in the Michigan Supreme Court directly from the Commission proceeding as provided by law, and Denied May 29, 1992. No report was made. A timely petition for Writs of Quo Warranto and Mandamus to the Michigan Supreme Court Justices for compelling an opening of the evidence refused for examination, etc. by the Attorney Grievance Commission, was filed in the US Supreme Court August 26, 1992 **(#92-6050)**, and Denied November 30, 1992. The related Motion for Waiver of Fees and Costs was Granted. It will be reported as ***In Re* Lynn Johnston, 506 US ___ (1992).**

Another related matter, titled **Emergency Complaint for Superintending Control of Visiting Washtenaw County Circut Court Judge Talbot** was filed in the Michigan Court of Appeals February 7, 1990 **(#114-597)** and Denied February 28, 1990. It is not reported.

A final related matter, **Lynn Johnston v Zeff and Zeff P.C., et al/Application for Leave to Appeal (1)the Denial of Motion for Entry of Default Judgment** [January 26, 1990 against the law office Defendants-Respondents], **(2)the February 9, 1990 Surety Bond Order, & (3)the Denial of the March 9, 1990 Motion to Set Aside the Surety Bond Order**, was filed in the Court of Appeals March 20, 1990 **(#126-949)** and Denied May 16, 1990. The related Motion for reduction of the $600.00 filing fee to $200.00 was Granted. The case is not reported.

JURISDICTION

The Michigan Supreme Court's Opinion / Order was filed March 29, 1993 and this Petition follows within 90 days. This Court's jurisdiction is invoked under title 28 U.S.C. §1257(a).

The service of these pleadings includes the Solicitor General, and the Michigan Attorney General as 28 U.S.C. §2303(b) may be applicable. Additionally, service includes the Executive Secretary of the Judge's Retirement System so as not to delay an opportunity to timely petition to be heard on the merits of the allegedly improper financial interests of member judges relative to Question Two.

CONSTITUTIONAL & STATUTORY PROVISONS Involved

with pertinent text set out in the Appendices

US Constitution (1787)

Art. VI, §2, & Art. IV, §4; (1791) 1st, 5th & 7th Amendments, and (1868) 14th Amendment §1.

US Statutes

1 Stat, 53 (1787), part (a) Art. II, clause 1, & part (a) Art. V, clause 3; 15 USC §§1 & 2; and 28 USC 1654.

Michigan Constitution (1963)
Art. I, §§ 1, 2, 3, 4, 13, 14, 17; Art. III, §2; Art. IV, §§ 35, 44; Art. VI, §§1, 3, 7, 14, 17, & 27.

Michigan Complied Laws
[Bonds] 15.1 (1), 15.181 (1)(d) (e)(i)(ii)(iii); [Judges retirement system] 38.2101 Sec. 101, 38.2104 Sec. 104 (3), 38.2108 Sec. 108 (1) (2), 38.2109 Sec. 109 (3) (4), 38.2110 Sec 110 (4), 38.2201 Sec. 201; [Private detective license & bonds] 338.829 Sec .9 (1); Circuit court clerk practices benefiting judges] 600.2529 (1)(a)(b)(c)(d)(e)(f)(i)(ii)(iii)(g)(h)(j) (2) (3) (4) (5) (6); [Transcription fees] 600.2543 (1); [Professional malpractice] 600.2912(1); [Actions against official/employee bonds] 600.2923 (1) (2); [Frivolous actions defined] 600.2591 Sec. 2591 (1) (2) (3)(a)(i)(ii)(iii)(b); [Court of claims] 600.6401, 600.6404, 600.6407, 600.6410(1), 600.6413 (1) (2) (3), 600. 6419 (1) (a)(b) (2) (3)(a)(b) (4), 600.6422, 600.6425, 600.6434 (2), 600.6437, 600.6443, 600.6449(1) (2) (3) (4), 600.6470; [District court clerk practices benefiting judges] 600.8371 (1) (2) (3) (4) (5) (6)(7); 600.8381 (1) (2); [Conspiracy - monopoly & restraints] 750.151 Sec. 151; [Perjury] 750.422, 750.423, and 750.425.

Michigan Court Rules
[Waiver of fees] Rule 2.002 (A) (B)(1) (D); [Filing and service of papers] Rule 2.107 (A)(1) (C)(1)(a)(b)(c)(2)(3) (G); [Security for costs] Rule 2.109 (A) (B)(1); [Captions] Rule 2.114 (C) (1)(a); [Signatures, effect, sanctions] Rule 2.114 (E);

[Summary disposition] Rule 2.116 (A)(1)(2) (C)(8)(10) (G)(3)(a)(b)(4)(5) (I)(5); [Motion practice] Rule 2.119 (A) (1)(a)(b)(c)(d) (C)(1)(a)(b)(2)(a)(b) (D)(1)(2)(a)(b) (E)(1); [Venue] Rule 2.222 (A) (B), and Rule 2.226. [Discovery] Rule2.301 (A)(1)(2)(3), Rule 2.302 (C)(1)(2)(3)(4)(5)(6)(7)(8)(9), Rule 2.306 (A)(1)(a)(b)(c)(d)(e) (F) (1)(2) (G)(1), Rule 2.309 (B)(1)(C), Rule 2.310 (A)(1)(a)(b) (B)(1)(2), Rule 2.313 (A)(2)(c)(4)(5) (B)(2)(c) (C)(1)(2)(3)(4) (D)(1)(a)(b)(c)(2)(3), Rule 2.314 (D)(1)(6); [Dismissals] Rule 2.504 (B)(1)(3); [Default entry and judgment] Rule 2.603 (A)(1)(2)(a)(b)(3) (B)(1)(a)(i)(2)(a)(c) (D)(1); [Relief from clerical mistakes] Rule 2.612 (A)(1)(2) (B) (C)(1)(a)(b)(c)(d)(e)(f)(2)(3); [Taxation of costs] Rule 2.625 (A) (D)(1) (I)(1); [Vexatious relief] Rule 7.216 (C)(1)(a)(b)(2); [Taxation of costs] Rule 7.219 (A) (I); [Vexatious relief] Rule 7.316 (D)(1)(b)(2); and [Assignment of by lot] Rule 8.111 (B) (C).

STATEMENT OF THE CASE

Facts primarily focused on Question One

The Court of Appeals (COA) refused constitutionally mandated publication July 14, 1992, with rehearing denied November 10, 1992. On March 29, 1993 the Michigan Supreme Court refused to grant Leave to Appeal and failed and refused to either grant or deny both Petitioner's Motion to Waive Fees and Costs, and her "Preliminary Motion for Authentication of Certain COA Orders" alleging prima facie evidence that specific Orders and Opinions in her

case, *purportedly* emmanating from the COA, were fraudulent interlopers drafted by one of the pro per legal malpractice Repsondents. The appellate orders have also removed the legal partnerships from the captions and declined restoration.[5] Petitioner relied on Michigan Const (1963), art IV, §35, equality before the law, due process, meaningful petitioning for redress of grievances,[a] and Judicial Branch concern with integrity of the courts.

Facts primarily focused on Question Two

On October 20, 1988 when $70.00 was demanded (File Record 10-20-88) and numerous other date, the County Court Clerk, demanded, collected and forwarded moneys taken from Petitioner to parties other than the State Treasurer for purposes other than deposit in the General Fund under MCL 600.2529. None of Petitioner's verbal notices of paying under protests[1] were recorded on the docket or cash receipts. The Docket Record shows that 45% of the initial filing fee was sent to the Executive Secretary of the Judges Retirement System for subsequent disbursement to its members under MCL 38.2101, 38.2104, 38.2108 38.2109, 38.2110, 38.2201. All of the trial and appellate judges and court Administrators involved in Petitioner's case are members receiving, or anticipating receipt of, such delayed compensation.[2] At the COA and Michigan Supreme Court, Petitioner sought an Order "declaring Court Clerk demands for money as a condition of access [to] court or jury process for redress of grievances and the collection or disbursements in violation of Michigan Constitution

(1963), art. VI, §§7 & 17 unconstitutional," but the matter was ignored without comment. Petitioner relies on the right to petition for redress of grievances in neutral Judicial Branch[2] in which the magistrates have no personal money interest in the proliferation of litigation or assessment of costs.

Facts primarily focused on Question Three TheMichigan Supreme Orders issues documents to the various Circuit Court Judges of Temporary Appointment or "transfer" to the Office of "Court" of Claims "Judge" MCL 600.6404.[3] As exhaustively demonstrated in Appellant's COA Brief (with over 200 citations of authority contained therein), such "court" is neither wholly of the Judicial, nor Executive Branch MCL 600.6407, 600.6410(1), 600.6413(1), 6006419, 6006422, 600.6425, 600.6434(2), 600.6437, 600.6449, 600.6470, and, as with other Executive Branch forums, there is no right to Trial by Jury MCL 600.6443. On January 6 and 13, 1989 Petitioner's cause of action, exclusively for money damages against Respondent Michigan State Police and State of Michigan MCL 15.1 15.181, & 600.2923, relative to official ministerial negligence and malfeasance in licensing and re-licensing a statutorily unqualified person against whom they had record of prior complaint, was disposed of by Judge Deake's Order of Summary Disposition, which Petitioner opposed based primarily on the issue of Trial by Jury MCR 2.119 (Docket Record 12-12 & 16-88). The cause of action was directed to the Court of Claims in Lansing (Hearing Transcript at File Record 6-6-89). No order of transfer or change of

venue under MCR 2.222, or 2.226 was issued. Petitioner took nothing to the "Court" of Claim, but upon the Appeal by Right filed August 2, 1990, sought an Order finding the Court of Claims Act (MCL 600.6401 et seq) unconstitutional primarily due to the denial of Trial by Jury, and non-independent judges in a mixed Executive/Judicial Branches forum. At the Court of Appeals, Appellees' Brief failed to address the legal questions, points of law, and precedents raised by Petitioner. The *purported* July 14, 1992 Order/Opinion of the Court of Appeals declares only that there is no merit to the claim of improper dismissal, that the Court of Claims has exclusive jurisdiction of such claims, and that they decline to interfere with this legislative determination. In a more substantial response to Appellant's Brief, Appellees' Brief at the Michigan Supreme Court focused on the disparity of analysis between Justice's opinions on ministerial negligence, but Leave was Denied. Petitioner relied on the separation of powers guaranteed in a republican form of govenment, the limitation of Judicial Branch appointment power guaranteed under Michigan Const (1963), art. VI, §27, and due process, equality before the law, Trial by Jury.*

Facts primarily focused on Question Four

On October 21, 1988 Respondent State Bar of Michigan signed the "Acknowledgement of Service" for the Process Server's "Return of Process." The File Record shows no answer was filed within the statutory time. Early on November 15, 1988

Petitioner entered the Washtenaw County Clerk's Office as the 1st non-employee in the door and attempted to have the County Clerk file the Entry of Default relying on MCR 2.603. The Clerk refused both her papers and statutory payment, making a special requirement that she procure an additional Affidavit from the Process Server which was promptly produced and offered. Petitioner was still refused statutory Clerk Services and sought intervention by the County Court Administrator, refusing to leave until the services were rendered. By late in the afternoon, the Administrator, having failed to deter Petitioner with suggestions that it was better to get along with others than upset them with insistance upon the opposed services, and himself having met with the Clerk's unrelenting refusal, sought the intervention of Presiding Circuit Court Judge Campbell. The Clerk steadfastly refused to obey Judge Campbell's Order to provide Petitioner services, and after nearly 9 hours of refusal, the Court Administrator implored Petitioner to leave the building, promising that the Clerk Services would be accomplished yet that day although the Clerk's Office had already closed, and her copies of the documents and cash receipt would be mailed. The "Notice and Entry of Default" was thus *Ordered* recorded in the Clerk's Office (File Record 11-15-88).

On January 6, 1989, a hearing was held on Respondent bar's 2 motions for Setting Aside Default and for entering Summary Judgment under MCR 2.503 & 2.116 based on theories of governmental immunity (File Record 11-18-88). Petitioner opposed

by motion with an Affidavit of Facts and request for an Evidentiary Hearing, there being a periodic public record of the bar compensating others from its non-tax-supported Client Fund upon bona fide claims of certain classes of member malpractice (File Record 1-4-89). Ignoring the support for an evidentiary hearing to resolve facts in dispute prior to allowing Summary Judgment MCR 2.116, Judge Deake *only* signed Respondent's proposed Order for Summary Judgment (Hearing Transcript (File Record 6-6-89). Subsequently without notice Judge Deake withdrew all the Orders signed at the January 6, 1989 Hearing from the Clerk's File Records and crossed-off the Clerk's Time-Stamps, kept them presumably for purposes of reconsideration, re-filing them with new Time-Stamps of January 13. He did not find the bar's statutorily required Affidavit of Meritorious Defense with its Motion to Set Aside Default pursuant to MCR 2.603, and thus had no colorable discretion for late signing of the bar's proposed order.

On February 27, 1989, Petitioner filed and served the required Notice for Entry of Default Judgment MCR 2.603. Respondent Bar by letter (File Record 3-6-89) attempted to restrain the Clerk from providing Clerk Services to Petitioner on her forthcoming request for "Clerk's for Entry of Default Judgment." Petitioner responded by letter (File Record 3-7-89) indicating the impropriety of the attempt to deter the Clerk from non-discretionary duties under law, citing the absence of an Order "Setting Aside Entry of Default" as a barrier to defaulted parties being heard on any matter.

Upon Application for Entry of Default 2.603(A), (B)(1)(a)(i)(2), (D)(1) (File Record 3-10-89). Petitioner was again refused Clerk Services, leading to a Complaint for Mandamus against the Washtenaw County Clerk, County Corporate Counsel, and Circuit Judges as an original action in the Court of Appeals, subsequently denied. Timely appeals were filed in the Michigan and US Supreme Courts to no effect. Later upon an Appeal of Right in the Michigan Court of Appeals, the Bar filed a Brief claiming the Notice and Entry of Default entered by the Clerk on Judge Campbell's *Order* was simply a clerk's error, prompting Petitioner to file a Motion to Strike the Brief which was *purportedly* denied on February 21, 1991.[4] The *purported* July 14, 1992 Opinion/ Order of the Court of Appeals disposing of the entire case, found no facts, cited no law, court rule, or precedent, but simply declared the Trial Court "implicitly" granted the Motion to Set Aside Entry of Default by granting the Motion for Summary Judgment instead. Petitioner relied on non-discretionary provisons of law entitling her to Clerk's Entry of Default Judgment upon Respondent's failure to meet the requirement for an Order Setting Aside Entry of Default, and on equality before the law, due process, and the meaningful right to petition for redress of grievances.[x]

Facts primarily focused on Question Five

In October and November, 1988 the law office Repsondents undertook conduct to avoid service of process by use of an armed guard and refusal of

certified mail. On January 6, & 13, 1989 Judge Deake Ordered service by 1st class mail. Shortly thereafter, their discovery misconduct causing Petitioner to travel by taxi to the next city for their deposition of her which they failed attend, resulted in a pre-motion request for her out-of-pocket expenses only, which they refused. Petitioner then brought a motion on March 3, 1989 for full compensation, but only $25.00 of the $336.08 sought was Ordered from the bench (Hearing Transcript at File Record 11-20-90). As Appellant's COA Brief detailed, Judge Deake Ordered Petitioner to compensate pro per lawyer Respondents $200.00 "attorney fees costs," when they prevailed. The July 14, 1992 COA Opinion declared that "there is no merit to plaintiff's claim that she should have been awarded attorney fees because she was doing an attorney's work and that "we do not agreee that the lower court's rulings were "an apparent result of invidious discrimination against "non-Bar-member pro per litigators" (emphasis plaintiff's). The litany of law office and detective vexatious Responsdents' bad faith conduct is summarized in Petitioner's Motion for Accelerated Judgment or Alternatives with Brief and Affidavit (File Record 10-25-89), and further incidents are in evidence at the January 26, February 2 & 9, April 6, and July 20, 1990 (Hearing Transcripts at File Record entry dates 3-19-90, 4-9-90, & 12-6-90) and in the numerous pleadings related thereto (demonstrated by the entire File Record between late December, 1989 and the end of the Trial Court proceedings in late July, 1990), and in

their January, 1991 Appellees' Brief in the COA, which Petitioner motioned to strike as a sham pleading, as well as in the *purported* COA Orders of February 21, 1991, October 9, 1991, & July 14, 1992 which give the appearance and sound of being the handiwork of Respondent Materna. Petitioner notes the analytical disparity between the federal and state use of "attorney fees and cost" to compensate and control litigation conduct, and relied on MCR 2.625(A), (D)(1), (I); MCR 2.114(E); 2.306(G)(1), 2.313(A)(5)(a), (B)(2), (C), (D)(1)(2); 7.216(C)(1)(2); 7.219(A), (I); 7.316 (D)(1)(b)(2); 15 USC §§1 & 2, and the principle of equal compensation for equal work* briefed in detail at the COA by Petitioner.

Facts primarily focused on Question Six

At the December 14, 1989 Hearing in Detroit (Transcript entry at File Record 12-6-90), Judge Talbot issued an Order compelling Petitioner's discovery against the law office Respondents, directing them to prepare such Order against themselves (Question 7 below). Thereafter neither they nor the Judge ever filed such Order, however a TRUE COPY made by Judge Talbot's Courtroom Clerk who was present during the proceedings, is found in the File Record (1-2-90) and in Petitioner's COA Application for Leave to Appeal of the Talbot's Orders relative to her entitlement to taking Default Judgment which was denied (case no. 126-944 at Appendix page A-1). Proof of service of a copy is also in the File Record at January 5, 1990. The law office Respondents failed to comply with the terms of the compelled discovery and Petitioner brought

on a motion (File Record 1-18-90), Friday January 26, 1990 for Entry of Default Judgment, (Hearing Transcript at File Record 3-19-90), duly scheduling and noticing their depositions in Detroit the day prior (File Record 1-5-90), but they refused to attend (Deposition Transcript entry at File Record 2-1-90). The next day, Petitioner's Motion for Entry of Default Judg- ment was denied from the bench with a specious, condenscending "explanation" to Petitioner that she first needed to get an Order compelling discovery.

By January 22, 1990 (immediately subsequent to her notice of motion for default judgment (File Record 1-22-90), Respondents filed a "7-day" proposed Order for making one of them Petitioner's new lawyer. Petitioner made *timely* objections thereto which were ignored, with Judge Talbot signing the proposed Order (backdated to December 1, 1989) making legal malpractice Respondent A. Robert Zeff "Plaintiff's Attorney" on January 29, 1990, and were again made at the February 2, 1990 Hearing which Petitioner brought on to strike the lien against any settlement (File Record Transript 4-9-90), Lloyds of London being obligated for payment of claims on a 10 million dollar legal malpractice policy (with a 1 million dollar deductible[5]). The law office Respondents' motion for terminating the suit unless Petitioner provided a $5,000.00 Surety Bond was filed by Respondent Materna 3 days later February 1, 1990, and Judge Talbot's Order allowed Petitioner 30 days to comply.[6] (File Record 2-26-90 & Transcript entry at 12-6-90).

Petitioner brought on a motion March 9, 1990 to set aside the Surety Bond Order for cause, presenting documentation of the finding of a "bona fide prima facie" case of legal malpractice from a professional lawyer, noting the genuine poverty of Petitioner[6] and requesting that "every consideration be given" to her (see File Record proof of service, Transcript entry at File Record 12-6-90, Attorney Rose documentation at COA Leave to Appeal[7] the 3 Orders obstructing Entry of Default Judgment against Respondent Zeff, et al, case no. 126-949, page A-8, also at COA Appeal of Right, no. 131-465 p.A-13 & A58-59). The COA Opinion ignores the placement of the attorney lien which is the critical issue. Petitioner relied on MCR 2.002(A), (B)(1), (D); MCR 2.109(A), (B)(1); MCR 2.119(A)(1), (D)(1)(2), (E)(1); MCR 2.306(A)(1), (G)(1) MCR 2.309(B)(1), (C); MCR 2.310(A)(1)(a)(b), (B)(1)(2); MCR 2.310(A)(1)(a)(b), (B)(1)(2); MCR 2.313(A)(2)(c), (A)(4), (A)(5), (B)(2)(c), (D)(1)(a)(3); MCR 2.504(B)(1)(3; MCR 2.301(A) and the right to neutral courts, due process, equality before the law, and meaningful petitioning for redress of grievance.[8]

Facts primarily focused on Question Seven

On April 6, 1989 issued an Order from the bench, terminating Petitioner's pro per prosecution 30 days hence. On the advice of out-of-state professional counsel,[**] a Federal Civil Rights Complaint for declaratory and injunctive relief was filed which is found in the Petitioner's COA Appendix. Thereafter Judge Deake did not sign the 30 day Order sought by the law office Respondents. Prior he denied prior a Protective Order sought in response to discovery

abuse undertaken by the same Respondents *prior* to any examination of the relevant audio evidence (still sealed), and their motions were repeatedly heard in the absence of prior notice and service of their pleadingssuch as the MISSING MARCH 3, 1989 DEPOSITION. Petitioner was directed to wait for Court Administrative scheduling of her pending matters. By July, 1989 Detroit Court Administrator **Levitt**[1] (see footnote 1) made a Special Assignment as "Visiting Washtenaw County Circuit Court" for purposes of adjudication of Petitioner's case, Michael J. Talbot elected as a Detroit Recorders Court Judge, but then already sitting by Special Assignment for Detroit area drug and forfeiture cases in the Detroit City-County Building. He failed and refuse to sit in Ann Arbor, and on December 14, 1989 the detective Respondents, upon a few days notice, scheduled a Summary Judgment Motion in Detroit. Petitioner, to avoid prejudice from taking matters out of order, brought all her long-pending motions on for the same Hearing. Judge Talbot failed and refused to either grant or deny[7] all but one of Petitioners motions on that day and others. He directed the pro per legal malpractice defendants to produce the Order compelling discovery against themselves, with Petitioner's protests voiced. The Order produced was captioned "Recorders Court" (Wayne County, Detroit), and poorly done. Neither they nor the Judge ever filed a copy despite Petitioner's efforts to cause same (and corerections), but Petitioner caused TRUE COPIES to be filed in several places. Judge Talbot would not allow an Evidentiary Hearing relative to

(Continued on page 29)

ARGUMENTS

Reasons for Granting the Writ of Certiorari

Arguement Primarily Relative to Question 1

•Refusing required publication

The Michigan Court steadfastly refuses to abide by the constitutional mandate requiring publication of judicial decisions. The constitutional repugnancy of the dispsition of Petitoner's questions of law, fact, procedure, and precedent raised by Right should be authoritatively settled.

•Refusing to investigate fraudulent orders

The Michigan Court blatantly ignores and refuses to authenticate several standing orders/opinions *purporting* to be genuine, but presenting prima facie evicence of being fraudulent interlopers, and it does so in light of Detroit News exposes of area personal injury lawyers boasting of writing the COA opinions for judges. Petitioner's experience should be settled as repugnant to due process and the integrity of meaningfully petitioning for redress of grievances.

Arguement Primarily Relative to Question 2

•Judges getting a percentage lack neutrality

Judges getting a percentage of access fees and court costs are not neutral and should not have power to determine under what terms and circumstances litigants may proceed, which evidence or witnesses will be heard, what they will be allowed to talk

about, or who will prevail. Such fees and costs provide pension security, no remote interest but a current concern.[1] Having to pay to file a petition for settlement of disputes in the Judicial Branch is as inappropriate as being asked to pay as a pre-condition of voting, communicating with the Legislature, or filing a complaint with the Executive Branch police pre-conditioneed upon paying a fee. Moreover, because of the large number of judges and states using access to Judicial Branch remedies as a means of getting money, this Court should authoritatively settle the issue of constitutional repugnancy.

•All controlling officials having a money interest against Petitioner

All the appellate and trial judges, court administrators, and state's chief executive officers have improper interests in moneys collected as a pre-condition of access to court process and they steadfastly ignore constitutional prohibitions and principles.[2] There is virtually no chance that Michigan will now undertake the political reform necessary for decades. The 1992 amendments only made alterations to avoid IRS challenges and

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1 Trial Court Judge Baugh was collecting such compensation concurrent with participation in Petitioner's case. Judges Deake and Campbell began their collections during the case pendency.

2 The other notable feature of such Judicial Branch money collection schemes is a special category of minor "civil" infractions/government-prosecuted statutory wrongs (which are exempt from the penal requirement that all fines go to the support of county libraries), for which the political subdivision, adjudicating without a jury, keeps moneys generated thereby.

eliminate Judges getting a percentage of the fines they assessed. Moreover, it is violation of the separation of powers principle for the Legislature to be dominated and crowded with lawyers who, as long as they are professionally licensed Officers-of-the-Court, are in conflict of interests. The repugnancy of this matter to the constitutional principle of neutral magistrates feeds a cancerous cynicism toward the system and processes of justice that should be terminated by a ruling settling the issue on basis that the right to petition for redress of grievances in the Judicial Branch, as elsewhere, should be without purchase.

Arguement Primarily Relative to Question 3

•Undermining the independence of the Judiciary, and usurping the Trial by Jury and Executive appointment power

The Michigan Court, by making numerous appointments to offices, arrogantly and indifferently usurps the elective and executive powers, the Trial by Jury, and undermines the separation of powers and independence of the judiciary required under a republican form of government. As is constitutionally mandated, the Executive Branch power should fill any temporary vacancies in bona fide Judicial Offices pending the next election, and no Judge should undertake adjudication in any forum such as the "Court" of Claims wherein the rules do not apply to both sides equally, the defendant can prevent an adverse judgment by refusing to stipulate to some critical fact, and the Jury has been replaced by a part-Judicial, part-Executive Branch

facilitator. In light thereof, and of the state constitutional requirement that *all* adjudication be in the Judicial Branch courts, the "Court" of Claims which shares adjudicatory power between Judicial Branch Judges and the State Administrative Board MCL 600.6419 (clearly an enity of the Executive Branch), should be declared constitutionally repugnant, and the defense of sovereign immunity should be declared void as a basis for Summary Judgment when a specific challenge to a law's constitutionality is made, and it should be further settled that the historical means of assuring responsible government by prosecutions against officials' or employees' honesty and performance bonds remains valid and triable before a Jury.

Arguement Primarily Relative to Question 4

•Refusing to strike sham pleadings based on lies

The Michigan Court ignores and refuses to strike sham pleadings made in bad faith upon lies in deference to Respondent bar association's interests, and the repugnancy to equality, due process and neutrality and court integrity should be declared.

•Limiting and usurping the Jury's determinative power

Only a Jury can neutrally hear and determine matters or motions wherein the judges, lawyers, and their professional association are parties in interest, and the Michigan Court severely limits Jury participation and usurps its determinative functions. This Honorable Court should authoritatively

restore jury rights by settling the issues of limitation and usurpation of its determinitive functions.

•Refusing to enter judgment against aligned interests

The Michigan Court blatantly refuses to enter Default Judgment against Respondent bar association upon unequivocal law and fact, articulating specious, heretofore unpublished exceptions to non-discretionary law for the unpublished private monopoly and restraint interests and economic benefit of aligned parties. Equality and due process require that Entry of Judgment against Repsondent bar association be mandated.

Arguement Primarily Relative to **Question 5**

•Giving license to bad faith conduct by refusal of equal compensation for equal pro per work

The Michigan Court steadfastly refuses to apply the principle of equal compensation for equal work to pro per litigants thereby giving license to bar members for a litany of imprudent and vexatious conduct without meaningful financial or professional consequences. The difference between state and federal analysis for the allotment of "attorney fees and costs" to pro per suitors undertaking the burdens and benefits of acting in the capacity of "attorneys-in-fact," should be eliminated and the underlying equality principle applied uniformly, and the purpose of the compensation should be authoritatively settled.

•Embracing monopoly and restraint practices against a class of suits and suitors

The Michigan Court has demonstrated no intention of tolerating or respecting the rights of a dissenter presenting a bona fide legal malpractice case which also exposes its improper financial interests, violations of constitutional powers and statutory processes, and the quiet practices of the bench and bar to restrain a certain class of suits and suitors, such as Petitioner, and thereby monopolize meaningful access to Judicial Branch remedies, and in this case, give license for the errection of obstacles and insurmountable barriers to restrain the processing of her pleadings and pursuit of justice. These are intentional acts of privileged, Officer-of-the-Court co-conspirators protecting their interest by invidious pro per discrimination. Such monopoly and restraint practices are contrary to federal and state statutes (15 USC §§1&2, and MCL 750.151 §151).

Arguement Primarily Relative to Question 6

•Embracing and embellishing lies to prevent judgment against aligned interests

The Michigan Court steadfastly embraces and brazenly embellishes the legal malpractice Respondents' transparent lie (that there was no Order compelling discovery) as the excuse for denying Petitioner judgment. TRUE COPIES of such Order being cited and readily found in the File Record, the dishonesty and repugnancy to Petitioner's equality and due process rights should be settled, and Entry of Default Judgment against the law office Repsondents should be mandated.

•Refusing the limitations of the Code of Professional Conduct

The Michigan Court steadfastly refuses to find anything wrong with the legal malpractice Respondents conducting their defense pro per while subject to the limitations of the Code of Professional Responsibility. A ruling should be made settling this issue in the interests of avoidance of Jury confusion, and the integrity of court process, such that in cases in which lawyers are likely to be called as witnesses, they can NOT be their own counsel or the lawyers of any other parties in the case.

•Embracing improper, artificial obstacles to terminate Petitioner's suit

The Michigan Court steadfastly refuses to find anything wrong with, and speciously embraces and promotes the improper and untimely placement of an insurmountable Surety Bond Order against Petitioner as a means of terminating inconvenient litigation. A finding should be made declaring the dishonesty and the repugnancy of this scheme to Petitioner's right to petition for redress of grievances, due process, and equality before the law.

•Ordering legal malpractice defendant to be "plaintiff's attorney"

The Michigan Court steadfastly refuses to find anything wrong with issuance of an Order over the objections of Petitioner making one of the legal malpractice Respondents "plaintiff's attorney." The fact that Petitioner could find no precedent citing such monkey-business wrong, it is not an argument

within the integrity of the Judiciary, and this conduct should be authoritatively settled as repugnant to due process, and the most basic principle of the advesarial system: opposing sides.

•Refusing to strike defendant's fraudulent attorney lien on Petitioner's settlement

The Michigan Court steadfastly refuses to find merit for an Order striking the bogus, but certifiable, "attorney lien" with notification to the legal mal-practice defendants' insurers that the lienor is not "plaintiff's attorney" and his lien has been stricken. In light of judicial notice being in evidence, of Respondent Zeff being re-investigated relative to a 5 million dollar matter involving forgery, and the bribery/gifting of a COA Judge, the refusal of such reasonable measures should be settled as repugnant to the principles of due process and the integrity of the courts.

Arguement Primarily Relative to **Question 7**

•Ordering termination of pro per litigation

The Michigan Court steadfastly refuses to find anything wrong Judge Deake Ordering termination of Petitioner's pro per prosecution of her case. The right to petition for redress of grievances in the Judicial Branch pro per, was noted by the First Congress [1789 Judicary Act] and is preserved at 28 USC 1654, and was also guaranteed from the time of Michigan's First Constitutional Convention (1835). The repugnancy of the attempted termination should be authoritatively declared.

•Refusing to examine evidence prior to denial of a protective order

The Michigan Court steadfastly refuses to find anything wrong with denying a Protective Order prior to examination of relevant evidence. The repugnancy to due process and should be declared.

•Embracing perjury and fraud on the court[3]

The Michigan Court, upon the State Court Administrative Office's investigative determination that Petitioner would have to pay the $1.95 per page cost for production of an *Original Document* rather than the low cost for copies of already-produced documents, steadfastly refuses to make the obvious inference of fact, that the law office Respondents never caused the March 3, 1989 Deposition to be transcribed into EXHIBIT form, and thus it is not found attached to any of their or the detective Respondents' pleadings or otherwise filed. It remains THE MISSING EXHIBIT. The repugnancy of this matter to the integrity of the courts and Petitioner's right of petitioning for meaningful redress of grievances should be settled.

•Refusing to enter judgment upon defendants' perjuries and frauds on the court

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[3] Had the Sharpe Bill (which provided for the Executive Branch function of issuing professional licenses by the Secretary of State) passed the Michigan Legislature, the corporate bar association would not be in the awkward position of Respondent for negligence in its self-funded character and fitness investigations (upon which the Michigan Court bases *its* issuance of professional licenses) with the predictable result being superficial character investigations, Respondent having allowed at least one prospective member to rely on the Pope as 1 of the 2 required character references when the Pope had no personal knowledge of him, (expect perhaps as God's Earthly representative).

The Michigan Court blatantly ignores the fact that the law office and detective Respondents filed sworn proofs relative to filing, serving, and use of the March 3, 1989 Deposition EXHIBIT without ever filing or serving it, refusing to cite the bad faith, vexation, perjuries, or frauds on the court and enter Default Judgment or otherwise compensate Petitioner. Due process and the integrity of Judicial Branch should require exposure and consequences for perjuries and frauds on the court, and these should be mandated to Petitioner's benefit.

•Making a special notorious judicial appointment to vex and torment Petitioner

The Michigan Court steadfastly refuses to find anything wrong with its Special Appointment of a Visiting Judge, who failed and refused to visit in the county of jurisdiction, forcing a handicapped, impoverished, non-driving Petitioner to travel to his distant county during a long and violent Greyhound bus strike, absent a change of venue. A finding should be made settling this issue and condemning the repugnancy to due process, and exposing the purpose of such Officer-of- the-Court scheming.

•Denying Petitioner's judicial access

The Michigan Court steadfastly refuses to find anything wrong with subjecting Petitioner to delays in excess of 6 month for court hearings when Respondents were heard upon a few days notice. A finding should be made settling this issue as repugnant to equality before the law, due process, and the meaningful petitioning for redress of grievances.

•Refusing exercise of supervisory control of notorious judicial conduct

The Michigan Court steadfastly refused supervisory control of, or to find judicial bias, or anything wrong with the Specially Appointed Judge failing and refusing to either grant or deny formally proposed orders and deliver douments filed with him in his courtroom to the County Clerk for the File Record. The repugnancy to due process and meaningful petitioning for redress of grievances, as well as the obvious intent should be declared.

•Refusing process for medical records

The Michigan Court steadfastly refuses to issue necessary Orders for procurement of copies of Petitioner's treatment records from uncooperative third parties. The repugnancy to due process should be declared, and process should be mandated so Petitioner can obtain copies of her treatment records.

•Refusing corrective efforts upon defendants' subversion of process.

The Michigan Court steadfastly refuses to find anything wrong with allowing pro per legal malpractice defendants to produce and not file important Orders against themselves, denying Petitioner's corrective efforts. The repugnancy to the integrity of judicial process and due process should be settled, and the TRUE COPIES Petitioner caused to be placed in the File Record should be declared adequate for all purposes, with Entry of Default Judgment against the law office Respondents mandated thereon.

eOrdering summary judgment while law and facts are in controversy

The Michigan Court steadfastly refuses to find anything wrong in giving Summary Judgment to the detective Respondents prior to the close of discovery and a resolution of relevant facts and applicable law. The repugnancy to due process, meaningful petitioning for redress of grievances, and court integrity should be authoritatively declared.

(Continued from page 17)

disputed facts and law related to the detective Respondents bond liability, bestowing a Summary Judgment Order on them as employees of the law office Respondents. Petitioner relied on MCL 338.829(1); MCL 600.2912(1); MCR 2.107(A)(1), (C),(G); MCR 2.113(C)(1)(a); MCR 2.116(A)(1)(2), (C)(8)(10), (G)(3)(4)(5), (I)(5); MCR 2.119(A)(1), (C)(1)(2), (D)(1), (E)(1); MCR 2.222(A), (B); MCR 2.226; MCR 2.302(C); MCR 2.314(D)(1), (G); and MCR 8.111(B)(C), and the right to petition for redress of grievances, due process and equality before the law, the right to prosecute one's own suits.[x]

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[x] See Appendix E by subject, i.e. due process, trial by jury, etc. for the citations and relevant text of the repeatedly noted basis state and federal constitutional rights.

(Informational footnotes appear at G27 & G28)

CONCLUSION

The unmistakable conclusion is that Officers-of-the-Court undertook to prevent consideration of Petitioner's professional malpractice case on the merits and with indifference to properly perserved questions of state and federal constitutional rights. The Michigan Supreme Court sanctioned the documented and complained of misconduct of the Respondents' and all lower court proceedings in an intentional manner to restrain and reduce Petitioner's rights to nothing. The end result of this departure from the usual course of judicial proceedings is that Petitioner has no enforceable state or federal rights in Michigan without the supervisory intervention of this Honorable Court.

This case presents a unique opportunity to strengthen the integrity and independence of the justice system as well as mandate the remedies to which Petitioner is entitled, but has so long been denied.

THEREFORE let a Writ of Certiorari issued directed to the Michigan Supreme Court requiring it to forward the ENTIRE ORIGINAL File Record related to this Petitioner. Petitioner also requests that amici curiae counsel be allowed to argue for or against Petitioner.

Respectfully Sumbitted,

June 26, 1993 /s/ Lynn Johnston

Lynn Johnston, Petitioner

APPENDIX A

March 29, 1993 ORDER of the Michigan Supreme (denying leave to appeal).....A2-3

Order **Michigan Supreme Court**

Entered: March 29, 1993 Lansing, Michigan

94974 & (47) (48)

Michael F. Cavanagh, Chief Justice, Charles L. Levin, James H. Brickley, Patricia J. Boyle, Dorothy Comstock Riley, Robert P. Griffin, Conrad L. Mallett, Jr. Associate Justices

LYNN JOHNSTON,
Plaintiff-Appellant,
v

SC: 94974
COA: 131465
LC: 88-49550-NM

ZEFF AND ZEFF P.C., HARRIET M. MORMAN, ROBERT ZEFF, MICHAEL T. MATERNA, STATE BAR OF MICHIGAN, RANDY BENEDETTI, BENNETT INVESTIGATIVE SERVICES, FRED A. HOLSEY, THE STATE OF MICHIGAN, and THE MICHIGAN STATE POLICE, [*] Defendant-Respondents.

On order of the Court, the application for leave to appeal and the motions to recuse are considered. The motions to recuse are DENIED. The application for leave to appeal is DENIED because we are not persuaded that the questions presented should be reviewed by this Court.

[* Defendant law office partership and the designation "Jointly and Severally" have been omitted by the original document producer.]

Riley, J., states as follows:

The conflict of interests allegation made by the appellant is completely false. Were the allegations true, I would recuse myself, but because it is not true, I join in the Court's order of denial.

30323

I, CORBIN R. DAVIS. Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of Court.

March 29, 1993 /s/ Corbin R. Davis, Clerk

APPENDIX B

July 14, 1992 purported cover letter, ORDER and OPINION of the Michigan Court of Appeal (appeal by right).....B2-10

MARTIN M. DOCTOROFF
CHIEF JUDGE
WILLIAM B. MURPHY
CHIEF JUDGE PRO TEM
DONALD E. HOLBROOK, JR.
MICHAEL J. KELLY
BARBARA B. MACKENZIE
MYRON H. WAHLS
HAROLD HOOD
ROMAN S. GRIBBS
JOHN H. SHEPHERD
JOSEPH B. SULLIVAN
DAVID H. SAWYER
ELIZABETH A. WEAVER

GARY R. MCDONALD
THOMAS J. BRENNAN
MARK J. CAVANAGH
RICHARD ALLEN GRIFFIN
MARLIN JEAN KELLY
JANETT NEFF
MAUREEN PULETE REILLY
KATHLEEN JANSEN
E. THOMAS FITZGERALD
MICHAEL J. CONNOR
CLIFFORD W. TAYLOR
MAURA D. CORRIGAN
JUDGES
ELLA WILLIAMS
CHIEF CLERK

STATE OF MICHIGAN

COURT OF APPEALS

LANSING

TO ATTORNEYS OF RECORD:

Enclosed with this letter is the decision and opinion in the entitled matter. We are releasing this opinion today.

Under MCR 7.215(A), no "per curiam" or "memorandum" opinions are published unless one of the judges of the panel deciding the case directs the reporter to do so. The words "For Publication" appear on the face of opinions of this type which are going to be published. Opinions not designated for publication at the time of release are printed on pink paper. Note that the official date of the filing of this opinion is the date stamped [*] on it. Under MCR 7.215(E), this opinion is the judgment of the Court of Appeals. All time periods for further action under the rules will run from the date stamped [*] on the opinion. See MCR 7.215(H) and MCR 7.302(C)(2)(b).

I hereby certify that the annexed is a true and correct copy of the opinion filed in the record of the Court of Appeals in the entitled matter [**] and that the date stamped [*] thereon is the actual date of filing.

Sincerely,
Ella Williams[***]
Chief Clerk

EW/vjs
Encl.
cc: Trial Judge or Agency

CL172r1291

DETROIT OFFICE
900 FIRST FEDERAL BUILDING
DETROIT, MICHIGAN 48226

LANSING OFFICE
109 WEST MICHIGAN AVENUE
LANSING, MICHIGAN 48909

GRAND RAPIDS OFFICE
350 OTTAWA, N.W.
GRAND RAPIDS, MICHIGAN 49503

[* No date(s) were stamped on by the document producer.]

[** No case identification designation or case caption was included as part of the letter by the document producer, nor identification of the parties to whom such letter was mailed.]

[*** No SEAL (which differs from the stationery logo photocopied above), and no signature or photocopy thereof, were included by the document producer.]

STATE OF MICHIGAN
COURT OF APPEALS

LYNN JOHNSTON,
Plaintiff-Appellant,

July 14, 1992
No. 131465

v

ZEFF AND ZEFF P.C., HARRIET M. MORMAN, ROBERT ZEFF, MICHAEL T. MATERNA, STATE BAR OF MICHIGAN, RANDY BENEDETTI, BENNETT INVESTIGATIVE SERVICES, FRED A. HOLSEY, THE STATE OF MICHIGAN, and THE MICHIGAN STATE POLICE, Defendant-Appellees. [*]

Before: Gribbs, P.J., and Hood and Charles W. Simon, Jr.*, JJ.
PER CURIAM.

Plaintiff appeals by right in propria persona from the lower court order dismissing this action. We affirm.

This action is grounded in an earlier medical malpractice lawsuit, filed through Zeff and Zeff and Materna, which was eventually dismissed. According to Zeff and Zeff, plaintiff refused to provide answers to interrogatories filed by one of the defendant doctors. The defendant doctor filed a motion to compel and plaintiff was ordered to answer within 30 days or face dismissal for noncompliance. Zeff and Zeff allegedly attempted

to contact plaintiff, even using the services of a private investigator (defendants Benedetti, Bennett Investigating and Holsey) to locate her. When they found they were unable to make contact with plaintiff, Zeff and Zeff attorney Harriet Morman filed a motion to withdraw as counsel. The motion was granted and plaintiff's medical malpractice action was subsequently dismissed.

Plaintiff responded by filing this legal malpractice action, alleging, among numerous other things, that the defendant attorneys failed to locate her and pursue her lawsuit, that the State Bar failed to properly investigate and license the attorneys, that the private investigators were negligent in not finding her, and that the state and state police were at fault for licensing the private investigators (according to plaintiff, there are over 95 pages included in the complaint and attached exhibits).

On February 2, 1990, following a hearing on defendants' motion for security bond, the trial judge found that plaintiff was not indigent and ordered her to post $5000 bond within 30 days. Following the court's ruling, plaintiff explained that her initial injury occurred after a martial arts instructor associated with defendant Zeff contracted to have her attacked. Plaintiff did not post bond and a hearing on defendants' motion to dismiss was held on July 20, 1990. Plaintiff was present at the hearing and declined to make any statement.

The trial court ordered this case dismissed. Plaintiff's subsequent motion to disqualify the trial judge was denied.

First, there is no merit to plaintiff's claim that her action against the State of Michigan and the Michigan State Police was improperly dismissed in the circuit court. Plaintiff submits 17 pages of argument on this issue, focused primarily on her disagreement with the law, but the fact remains that the court of claims has exclusive jurisdiction over claims against the state and state agencies. MCL 600.6419; MSA 27A.6419. We decline to interfere with this legislative determination.

---

[a]Circuit judge, sitting on the Court of Appeals by assignment.

There is no merit to plaintiff's claim that the trial court's grant of defendant State Bar Association's motion for summary disposition was improperly granted becaused the trial court did not first grant defendant's motion to set aside default. The trial court's decision to set aside the default is implicit in its order granting summary disposition to defendant. Moreover, the trial court did not abuse its discretion in setting aside the default. MCR 2.612(C).

There is no merit to plaintifff's claim of judicial miscojnduct and general unfairness in responding to her many motions. This claim, like many of the others in this matter, is unsupported by pertinent caselaw. In any event, it appears from the record that the lower court gave plaintiff the benefit of every doubt and made great efforts to explain and facilitate the legal process for plaintiff, a non-lawyer. We find no abuse of discretion.

There is no merit to plaintiff's claim that she should have been awarded attorney fees because she was doing an attorney's work. We do not agree that the lower court's rulings were "an apparent result of invidious discrimination against "non-Bar-member pro per litigators" (emphasis plaintiff's).

The trial court did not err in granting summary disposition to the defendant detectives and detective agency. The agency was apparently hired and paid by the defendant law office to ascertain plaintiff's current address during a prior pending lawsuit where plaintiff was a client of the law office. Plaintiff essentially claims that the agency was incompetent in failing to locate her.

There is no merit to plaintiff's claim that it is improper for defendant attorneys to defend them-

selves against plaintiff's accusation of malpractice. Attorneys are permitted to respond when accused of misconduct. See, for example, comments to MRPC 1.6. Plaintiff's many arguments concerning attorney misconduct, fraud, perjury, deceit and conspiracy, all unsupported by caselaw, are also without merit.

The trial court did not err in denying plaintiff's motion for default judgment against the law office defendants for their failure to comply with her request for information. We note that defendants assert in their brief that they answered over 400 of plaintiff's interrogatories, requests for production and requests for admission. In any case, although the trial court explained to plaintiff that she would need to file a motion to compel discovery prior to asking for a default judgment, she failed to do so.

There is no merit to plaintiff's claim that the trial court improperly allowed defendant Materna to be substituted as plaintiff's counsel. It appears that there is a clerical error in pleadings substituting Materna as counsel for the law office defendants, however, it is clear throughout all of the file records that Materna was representing defendants, not plaintiff.

Finally, the trial court did not err in dismisisng plaintiff's action after she refused to comply with the trial court's order to post a $5000 bond as security for costs. Although plaintff refused to give the trial court details of her finances, she did admit that her income exceeded her expenses. Plaintiff also told the trial court that she refused to accept social security payment because she [**] the idea of "taking handout from the government" "offends" her. The trial court ordered plaintiff to post the bond within 30 days. Plaintiff failed to do so. Four months later, a hearing was held on defendants' motion to dismiss. Plaintiff was present and refused to make any statement. The trial court properly dismissed this actions. MCR 2.504(B))(1).

Affirmed.

/s/ Roman S. Gribbs
/s/ Harold Hood
/s/ Charles W. Simon, Jr. [***]

[* The law office defendant partnership and the designation "Jointly and Severally" have been omitted from the caption by the original document producer.]

[** There are apparently several word mising at this juncture in the original document.]

[*** No seal, and no signatures or photocopies thereof appear on the foregoing document.]

APPENDIX C

July 20, 1990 ORDER of the TALBOT Trial Court (dismissing the law office Defendants from the Complaint with prejudice).....C2-3

December 14, 1989 ORDER of the TALBOT Trial Court (summary disposition for the detective Defendants from the Complaint with prejudice).....C4-6

January 6 & 13, 1989 ORDER of the DEAKE Trial Court (summary disposition for Defendant bar association).....C-7

January 6 & 13, 1989 ORDER of the Deake Trial Court (summary disposition for Defendant police department and state).....C8-9

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

Lynn Johnston, Plaintiff,

CASE NO: 88-4955-NM
HON: MICHAEL J. TALBOT
Visiting Judge

vs.

ZEFF AND ZEFF P.C. (I.D. #089251), HARRIET M. MORMAN (P28239), ROBERT ZEFF (P22704) (ALSO KNOWN AS A. ROBERT ZEFF), MICHAEL T. MATERNA (P22814), and the firm or association d/b/a ZEFF AND ZEFF & MATERNA, and the STATE BAR OF MICHIGAN (a private, non-profit association of lawyers), and RANDY BENEDETTI (ALSO KNOW AS RANDY BENNEDETTI) (PD 1042), BENNETT INVESTIGATIVE SERVICES, and FRED A. HOLSEY, and THE STATE OF MICHIGAN, and THE MICHIGAN STATE POLICE (ALSO KNOWN AS MICHIGAN DEPARTMENT OF STATE POLICE), Jointly and Severally, Defendants.

ORDER

At a session of said Court held in the City-County Building, City of Detroit, County of Wayne, State of Michigan on:

JUL 20 1990

C2

PRESENT: HON: MICHAEL J. TALBOT
Circuit Court Judge

The Court having read Defendant's Motion to Dismiss Plaintiff's Complaint:

The Court having heard oral argument concerning Defendant's Motion to Dismiss Plaintiff's Complaint:

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss Plaintiff's Complaint is granted.

IT IS FURTHER ORDERED that Plaintiff's Complaint be dismissed with prejudice.

IT IS SO ORDERED.

DATED. ~~April 6,~~ 1990

July 20

HON: /s/_____
MICHAEL J. Talbot

PRESENTING ATTORNEY:

/s/_____
FRANCIS A. AMICONE P42040
Attorney for Defendants

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

Lynn Johnston, Plaintiff,

CASE No: 88-49550-NM
HON. MICHAEL J. TALBOT

vs.

ZEFF AND ZEFF P.C. (I.D. *089251), HARRIET M. MORMAN (P28239), ROBERT ZEFF (P22704) (ALSO KNOWN AS A. ROBERT ZEFF), MICHAEL T. MATERNA (P22814), and the firm or association d/b/a ZEFF AND ZEFF & MATERNA, and the STATE BAR OF MICHIGAN (a private, non-profit association of lawyers), and RANDY BENEDETTI (ALSO KNOW AS RANDY BENNEDETTI) (PD 1042), BENNETT INVESTIGATIVE SERVICES, and FRED A. HOLSEY, and THE STATE OF MICHIGAN, and THE MICHIGAN STATE POLICE (ALSO KNOWN AS MICHIGAN DEPARTMENT OF STATE POLICE), Jointly and Severally, Defendants.

----------/

LYNN JOHNSTON
Plaintiff in Propria Persona
Box 2439 Ann Arbor, MI 48106

MICHAEL T. MATERNA (P22814)
FRANCIS A. AMICONE (P42040)
Attorney for Defendants
Zeff and Zeff, P. C. ; Harriet M. Morman;

Robert Zeff, a/k/a A. Robert Zeff;
Michael T. Materna and Zeff and Zeff
& Materna
607 Shelby
Detroit, MI 48226
313/962-3825

GERALD M. SOBOROWSKI (P28544)
Attorney for Randy Benedetti a/k/a
Bennett Investigative Services
33159 Ford Road
Garden City, MI 48135
313/256-8400

ORDER GRANTING DEFENDANTS RANDY BENEDETTI AND BENNETT INVESTIGATIVE SERVICES MOTION FOR SUMMARY DISPOSTION

at a session of said Court held in the City of Detroit, County of Wayne, State of Michigan on DEC 14 1990

PRESENT: THE HONORABLE
HON. MICHAEL J. TALBOT

UPON THE READING and consideration of the Motion and Brief in Support of Motion of Defendants RANDY BENEDETTI and BENNETT INVESTIGATIVE SERVICES for Summary Disposition and a Hearing

having been held in open Court and the Court being fully advised in the premises:

IT IS HEREBY ORDERED that the Motion for Summary Disposition of Defendants RANDY BENEDETTI and BENNETT INVESTIGATIVE SERVICES shall be and the same is hereby granted.

HON. MICHAEL J. TALBOT
HONORABLE CIRCUIT COURT JUDGE

approved as to form:

_____

LYNN JOHNSTON
Plaintiff in Propria Persona

_____

FRANCIS A. AMICONE (P42040)
Attorney for Defendants
Zeff and Zeff, P.C.;
Harriet M. Morman;
Robert Zeff, a/k/a A. Robert Zeff
and Michael T. Materna and
Zeff and Zeff & Materna

_____

GERALD M. SOBOROWSKI (P28544)
Attorney for Defendants
Randy Benedetti and
Bennett Investigative Services

STATE OF MICHIGAN **ORDER** **CASE NO.**
22ND JUDICIAL CIRCUIT 88-49655-NM
WASHTENW COUNTY
Courthouse, 101 East Huron Street, Ann Arbor, Michigan 48107 (313) 994-2507

Lynn Johnston v Zeff & Zeff, P.C., et al.
In Pro Per Dennis E. Path (33630)
P.O. Box 2439 State Bar of Michigan
Ann Arbor, Michigan 48105 306 Townsend Street
(no phone) Lansing, Michigan 48933
(517) 372-1280

1. Motion title: For Summary Disposition [sic]
2. Moving party: Defendant State Bar of Michigan
3. This matter has been placed on the motion calander for:

Judge Edward D. Deake Bar no. P12582
Date 1/6/89 Time 10:00 A.M.
Hearing location ☒ court address above ☐_____

IT IS ORDERED : The above named motion is
☒ granted.
☐ granted in part, denied in part.
☐ denied.

The Defendant State Bar of Michigan is therefore dismissed as a party to this action and Plaintiff's claims against the State Bar of Michigan are dismissed with prejudice.

/s/January 6 ,1989 JAN 6 1989 /s/_____
Judge Hon. Edward D. Deake

STATE OF MICHIGAN IN THE CIRCUIT COURT
FOR THE COUNTY OF WASHTENAW

Lynn Johnston, Plaintiff

Docket No. 88-4955 NM

v

Hon. Edward D. Deake

ZEFF AND ZEFF P.C. (I.D. 089251), HARRIET M. MORMAN (P 28239), ROBERT ZEFF (P 22704) (ALSO KNOWN AS A. ROBERT ZEFF), MICHAEL T. MATERNA (P 22814), and the FIRM OR ASSOCIATION d/b/a ZEFF AND ZEFF & MATERNA, and the STATE BAR OF MICHIGAN (a private, non-profit association of lawyers), and RANDY BENEDETTI (ALSO KNOWN AS RANDY BENNEDETT) (PD 1042), BENNETT INVESTIGATIVE SERVICES, and FRED A. HOLSEY, and THE STATE OF MICHIGAN, and THE MICHIGAN STATE POLICE (ALSO KNOWN AS THE MICHIGAN DEPARTMENT OF STATE POLICE), JOINTLY AND SEVERALLY. Defendants./

LYNN JOHNSTON Plaintiff in Pro Per

MICHAEL E. McDANIEL (P 34738)
Assistant Attorney General
Attorney for Defendant State of Michigan
and Michigan State Police 6th Floor, Law Building
Tort Defense Division 525 W. Ottawa Street
Lansing, MI 48913 (517) 373-6096

DENNIS E. PATH (P 36660)
Attorney for Defendant State Bar of Michigan

ORDER

At a session of said Court, held in the City of Ann Arbor, County of Washtenaw, State of Michigan, on the /s/ [redacted] day of /s/ January, 1989

/s/ 12

PRESENT: EDWARD D. DEAKE
Circuit Court Judge

This matter having come before this Court this day, on Motion of Defendant State of Michigan and Michigan State Police for Summary Disposition and the Court having reviewed the pleadings, heard arguments of the parties and being otherwise fully advised in the premises:

NOW THEREFORE IT IS HEREBY ORDERED that Defendant State of Michigan and Michigan State Polices' Motion for Summary Disposition is hereby GRANTED.

IT IS SO GRANTED.

/s/_____
Honorable Edward D. Deake

_____

Michael C. McDaniel (P 34738)
Attorney for Defendant State
of Michigan and Michigan State Police

_____

Lynn Johnston - Plaintiff in Pro Per

APPENDIX D

September 17, 1992 ORDER of the Michigan Court of Appeals (denying rehearing).....D2

Court of Appeals, State of Michigan

ORDER

Roman S. Gribbs
Presiding Judge
Harold Hood
Charles W. Simon, Jr.
Judges

Lynn Johnston v Zeff and Zeff PC
Docket # 131465
L.C. # 88-4955 NM

The Court orders that the motion for rehearing is DENIED.

A true copy entered and certified by Ella Williams

Chief Clerk, on
/s/ Ella Williams
Chief Clerk

SEP 17 1992
Date

CA44r491

PUBLISHER'S NOTE

THE FOLLOWING PAGE IS UNAVAILABLE
FOR FILMING

E1

APPENDIX E

Federal & state constitutional provisions & US Statutes

US Constitution (1787), Art. VI, §2 ..... E2
(1787), Art. IV, §4 ..... E2
(1791), 1st Amendment E5
(1791), 5th Amendment E6
(1791), 7th Amendment E8
(1868), 14th Amendment §1 ..... E6
1 Stat. 53 (1787), part (a) Art. II, clause 1 ..... E6
part (a) Art. V, clause 3 ..... E2-3
15 USC 1 ..... E11
15 USC 2 ..... E11
28 USC 1654 ..... E9
Michigan Constitution (1963), Art. I, § 1 ..... E7
Art. I, § 2 ..... E7
Art. I, § 3 ..... E5
Art. I, § 13 ..... E9
Art. I, § 14 ..... E8
Art. I, § 17 ..... E8
Art. III, §2 ..... E3
Art. IV, § 35 ..... E9
Art. IV, § 44 ..... E8
Art. VI, §1 ..... E3
Art. VI, §3 ..... E4
Art. VI, §4 ..... E4
Art. VI, § 7 ..... E10
Art. VI, § 17 ..... E10
Art. VI, §14 ..... E4
Art. VI, § 27 ..... E5

US Constitution Supremacy

US Constitution (1787), Art. VI, §2:
The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Republican form of government & separation and limitation of powers

US Constitution (1787), Art. IV, §4:
The United States shall guarantee to every state in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

1 Stat. 53 (1789), part (a) Art. V, clause 3 [Republican form of government -adaption and incorporation of "An Ordinance for the Government of the Territory of the United States north-west of the river Ohio" into the statutes at large].
And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall

be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government; Provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

Michigan Constitution (1963), Art. III, §2: Separation of powers of government.
The powers of government are divided into three branches; Legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Michigan Constitution (1963), Art. VI, §1: Judicial power in court of justice; divisions.
The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisidiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Michigan Constitution (1963), Art. VI, §3: Chief justice; court administrator; other assistants.

One justice of the supreme court shall be selected by the court as its chief justice as provided by the rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the court and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Michigan Constitution (1963), Art. VI, §4: General superintending control over courts; writs; appellate jurisdiction.

The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Michigan Constitution (1963), Art. VI, §14: County clerks; duties, vacancies; prosecuting attorneys, vacancies.

The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions

Michigan Constitution (1963), Art. VI, §27: Power of appointment to public office.
The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

The right to petition for redress of grievances

US Constitution (1791), 1st Amendment:
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceable to assemble and to petition the Government for a redress of grievances.

Michigan Constitution (1963), Art. I, §3: Assembly, consultation, instruction, petition.
The people have the right peaceably to assemble, to consult for the common good, to instruct their representative and to petition the government for redress of grievances.

Due process & equality before the law

US Constitution (1791), 5th Amendment:
No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment

or indictment of a Grand Jury, except in cases in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

US Constitution (1868),14th Amendment, §1:
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

1 Stat. 52 (1789) part (a) Art. II, clause 1
The inhabitants of the said territory, shall always be entitled to the benefits the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law.

Michigan Constitution (1963), Art. I, §1: Political power.

All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Michigan Constitution (1963), Art. I, §2: Equal protection; discrimnation.

No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of his religion, race, color or nation origin. The legislature shall implement this section by appropriate legislation.

Michigan Constitution (1963), Art. I, §17: Self-incrimination; due process of law; fair treatment at investigations.

No person shall compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearing shall not be infringed.

Jury rights

US Constitution (1791), 7th Amendment:
In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.

1 Stat. 52 (1789), part (a) Art. II, clause 1
The inhabitants of the said territory, shall always be entitled to the benefits the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law.

Michigan Constitution (1963), Art. I, §14: Jury Trials.
The right of trial by jury shall remain, but shall be waived unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurrors a verdict shall be received when 10 jurors agree.

Michigan Constitution (1963), Art. IV, §44: Trial by jury in civil cases.
The legislature may authorized a trial by a jury of less than 12 jurors in a civil case.

Pro per petitioning of one's own causes

28 USC 1654: Appearance personally or by counsel.
In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

Michigan Constitution (1963), Art. I, §13: Conduct or suits in person or by counsel.
A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Publication of judicial decisions

Michigan Constitution (1963), Art. IV, §35: Publication and distribution of laws and judicial decisions.
All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decision shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Financial restrictions

Michigan Constitution (1963), Art. VI, §7: Staff; budget; salaries of justices; fees.
The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Michigan Constitution (1963), Art. VI, §17: Judicial salaries and fees.
No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Prohibition of monopoly & restraint practices

15 USC 1: Trusts, etc., in restraint of trade illegal; penalty.

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other persons, one hundred thousand dollars, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.

15 USC 2: Monopolizing trade a felony; penalty.

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years, or both said punishments, in the discretion of the court.

APPENDIX F

MICHIGAN COMPLIED LAWS

[Bonds]
15.1 (1).....F3
15.181 (1)(d) (e)(i)(ii)(iii).....F3-4

[Judges retirement system]
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BLANKET HONESTY AND PERFORMANCE BONDS

15.1 Blanket fidelity bonds, approval; treasurers and tax collectors, individual bonds

(1) Nothwithstanding the provisions of any other law, officers and employees of all state departments and agencies that are required by statute or in the discretion of the director of the department covered, or otherwise to furnish bonds conditioned for their honesty or faithful discharge of their duties shall be covered by a blanket bond or bonds as a departmental group or as a state group by corporate surety companies as approved....

15.181 Definitions

(1) As used in this act:

(d) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, school district, intermedicate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not inducle a person whose employment results from election or appointment.

(e) "Public officer" means a person who is elected or appointed to any of the following:

(i) An office established by the state constitution of 1963.

(ii) A public office of a city, village, township, or county in this state.

(iii) A department, board agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

JUDGES RETIREMENT ACT

MCL 38.2101 Short title

Sec. 101. This act shall be known and may be cited as "the judges retirement act of 1992". [*]

[* The 1992 repeal of the prior legislation providing for the funding of the judges retirement system, appears to have been essentially concerned with amendments to avoid IRS challenges. All relevant portions in the new1992 legislation relating to the judges' allegedly improper money interests in the assessment of fines and court costs upon convictions or the like, and the profiferation of litigation, are the same as they were is the prior legislation.]

38.2104 Definitions

Sec.104 (3) "Court fees" means a court filng fee or costs earmarked for the retirement system and collected by a county clerk, clerk of the circuit court, or clerk of the district court pursuant to sections 880, 2528, 2529, 5756, 8371, 8381, and 8420 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.880[**],

600.2528[**], 600.2529[***], 600.5756[**], 600.8371[***], 600.8381[***], and 600.8420[**] of the Michigan Compiled Laws.

[** Not reproduced herein, but similarly providing for moneys for the judges retriement system.]

[*** Reproduced in this Appendix.]

38.2108 Definitions

Sec. 108 (1) "Plan 1 member" means a member or vested former member who is or was the govenor, lieutenant governor, secretary of state, attorney general, or legislative auditor general.

(2) "Plan 2 member" means a member or vested former member who is or was the constitutional court administrator, a justice of the supreme court, or a judge of the court of appeals.

38.2109 Definitions

Sec. 109 (3) "Retirant" means a member who retired with a retirement allowance payable from the reserves of the retirement system under this act, the former judges retirement system or the former probate judges retirement system.

(4) "retirement allowance" means a series of monthly payments to a retirant or retirement allowance beneficiary from the reserves of the retirement system.

38.2110 Definitions

Sec. 110 (4) "State official" means the governor, lieutenant governor, secretary of state, attorney general, legislative auditor general, and constitutional court administrator.

38.2201 Judges retirement system; creation

Sec. 201. The Michigan judges retirement system is created for judges and state officials.

PRIVATE DETECTIVE LICENSE ACT *[Secretary of state powers and duties under former §338.801 et seq., were transfered to the department of state police under MCL 16.256]*

338.829 License; conditions of issuance, fee, duration, revocation, bonds, branch office

Sec. 9 (1) ....a bond in the sum of $5,000.00 if a person, or $10,000.00 if a firm, partnership or corporation, conditioned for the faithful and honest conduct of such business by such applicant,.... The bonds shall be taken in the name of the people of the state, and any persons injured by the wilful, malicious and wrongful act of the principal may bring an action on the bond in his own name to recover damages suffered by reason of such wilful, malicious and wrongful act....

CLERK PRACTICES BENEFITING JUDGES

600.2529 Circuit courts; counties over 100,000

(1) In the circuit court in a county having a population of 100,000 or more, the following fees

shall be paid to the clerk of the court:

(a) Before a civil action is commenced, or before the filing of an application for superintending control or for an extraordingary writ, except the writ of habeas corpus, the moving party shall pay the sum of $42.00. The clerk at the end of each month shall tranmit for each $42.00 collected within the month, $18.75 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, [*****] $5.00 to the secretary of the Michigan legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, Act No. 261 of the Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Michigan Compiled Laws; $5.25 to the state treasurer for deposit in the general fund; $2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, Act no. 260 of the Public Acts of 1988, being sections 691.1151 to 691.1564 of the Michigan Compiled Laws; and the balance of the filng fee to the county treasurer.

(b) Before the filing and entering of a transcript, claim of appeal, or motion for leave to appeal from the district court or a municipal court, the sum of $5.00.

(c) For each trial without a jury, the plaintiff shall pay the sum of $15.00. If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $30.00. Failure to pay

the fee within the time provided in the court rules constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs.

(d) Before entry of a final judgment by default in pleading in an action without a jury or by consent without trial, or the entry of a judgment against a granishee defendant upon a district or municipal court transcript, for the entry of a judgment on an award from a board or referee upon whose award the law permits the entry of judgment, the sum of $10.00.

(e) Before entry of a final judgment in an action in which trial has been had, or in which a jury is called to render a verdict upon default in pleading, the sum of $10.00.

(f) In addition to the judgment fee provided in subdivision (d) or (e), before entry of a final judgment in an action for divorce or separate maintenance in which minor children are involved, or the entry of a final judgment in a child custody dispute submitted to the circuit court as an original action, 1 of the following sums, which shall be deposited by the county treasurer as provided in section 2530.

(i) If the matter was contested or uncontested and was not submitted to domestic relations mediation or investigation by the friend of the court, $30.00.

(ii) If the matter was contested or uncontested and was submitted to domestic relations mediation, $50.00.

(iii) If the matter was contested or uncontested and the office of the friend of the court conducted an investigation and made a recommendation to the court, $70.00.

(g) Upon the filing of a motion, the sum of $10.00.

(h) If causes of action are consolidated or tried simultaneously and separate judgments rendered, the sum of $10.00 on the entry of each judgment.

(j) Upon appeal to the supreme court, the sum of $20.00.

(2) The sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees shall be paid over to the county treasurer as required by law.

(4) The court may order any of the fees prescribed in this section waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

(5) After January 1, 1996 the filing fee shall be $40.00 and the state treasurer shall not credit $2.00 to the community dispute resolution fund created by Act No. 260 of the Public Acts of 1988.

(6) The clerk of the circuit court shall prepare and submit a court filing fee report to the executive

secretary of the Michigan judges retirement system created by the judges retirement act of 1992 [****] at the same time the clerk of the circuit court transmits the portion of the fee collected under this section to the executive secretary.

[**** Similarly prior to the 1992 alterations of such retirement system.]

TRANSCRIPTION FEES

600.2543 Circuit court reporters or recorders; transcripts, fees

(1) The circuit court reporters or recorders shall be entitled to damand and receive per page for a transcprit ordered by any person the sum of $1.75 per original page and 30 cents per page for each copy, unless a lower rate is agreed upon. .....

PROFESSIONAL MALPRACTICE

600.2912 Actions for malpractice; members of state licensed professions

(1) A civil action for malpractice may be maintained against any person profession or holding himself out to be a member of a state licensed profession. The rules of common law applicable to actions against members of a state licensed profession, for malpractice, are applicable against any person who holds himself out to be a member of a state licensed profession.

600.2923 Action on official or other bond; assignment of specific breaches; other breaches pending suit; notice by surety; damages; execution and levy

(1) **Assignment of specific breaches.** When an action is prosecuted in any court upon any bond of any public officer, or upon any bond for the breach of any condition, other than the payment of money, or for any penal sum for the nonperformance of any convenant or written agreement, the plaintiff shall assign the specific breaches for which the action is brought, and upon the trial of such action, the verdict and judgment shall be for such damages as are found arising from the specific breaches assigned; and such judgment shall not be a bar to any further action by the same, or any other plaintiff, for any subsequent breaches of the condition of said bond; but said bond shall stand as security for any further or subsequent breaches to the amount of the remainder of the penalty thereof.

(2) **Pendency of suit as affecting other breaches.** During the pendancy of any suit upon such official bond, or after judgment rendered in such suit, any other party aggreived by the default or delinquency of such officer, may, in like manner prosecute an action upon such official bond; and the pendency of any other suit on the same bond or a judgment recovered by or against any other person

on such bond shall not abate or in any manner affect such suit, or the prodceedings therein, except as hereinafter provided.

FRIVOLOUS ACTIONS DEFINED

600.2591 Frivolous actions; costs and fees

Sec. 2591(1) Upon motion of any party, if a court finds that a civil action or defense to a civil action was frivolous, the court that conducts the civil action shall award to the prevaling party the costs and fees incurred by that party in connections with the civil action by assessing the costs and fees against the nonprevailing party and their attorney.

(2) The amount of costs and fees awarded under this section shall include all reasonable costs actually incurred by the prevailing party and any costs allowed by law or by court rule, including court costs and reasonable attorney fees.

(3) As used in this section:

(a) "Frivolous" means that at least 1 of the following conditions is met"

(i) The party's primary purpose in initiating the action or asserting the defense was to harass, embarrass, or injure the prevailing party.

(ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were in fact true.

(iii) The party's legal position was devoid of arguable legal merit.

(b) "Prevailing party" means a party who wins on the entire record.

COURT OF CLAIMS

600.6401: Short title.
This chapter shall be known and may be cited and "the court of claims act".

600.6404: Creation of court; judges
The court of claims is created as a function of the circuit court for the thirtieth judicial circuit. A circuit judge of the thirtieth judicial circuit and any judge assigned into the thirtieth judicial circuit by the state court administrator may exercise the jurisdiction of the court of claims as provided by law....

600.6407: Sessions, location; court officer
The court shall hold at least 4 sessions in each year. sessions of the court of claims may be held in various circuits in the state as the supreme court administrator may determine. If the hearing in a particular case is to be held at a place other than the city of Lansing, due notice shall be given to all interested persons. The sheriff of the county within which a case is heard, or 1 of his deputies, shall serve as court officer without additional compensation therefor. The department of management and budget shall furnish the court with suitable space and equipment in the city of Lansing.

600.6410 Clerks; fees; service of process
(1) The circuit judges of the thirtieth judicial circuit shall appoint or remove the clerk of the court of claims.

600.6413 Ingham county reimbursement of costs; transfer of employees; seniority rights; retirement benefits

(1) The state shall reimburse the county of Ingham for the reasonable and actual costs incurred by that county for implementing jurisdictional duties in the circuit court imposed on that county by this chapter.

(2) The county of Ingham shall submit quarterly its itemized costs as described in this section to the state court administrative office. After determination by the state court administrator of the reasonableness of the amount to be paid, payment shall be made pursuant to the accounting laws of this state. Determination of reasonableness by the state court administrator shall be conclusive.

(3) Full-time employees of the court of claims are transferred to the circuit for the thirtieth judicial circuit. Seniority rights, annual leave, sick leave, longevity pay and retirement beneifts to which employees of the court of claims are now entitled shall be preserved and the employees shall be continued in their positions in the court of claims in the thirtieth judicial circuit in a manner not inferior to their prior status. The obligation of the state for retirement benefits to employees of the court of claims for their accrued service in the court of claims shall not be transferred. The retirement system available to public employees in Ingham county shall provide retirement benefits to employees of the court of claims not inferior to those provided therefor under their prior status.

600.6419 Jurisdiction; claims less than $1,000; counterclaims.

(1) **Power and Jurisdiction.** Except as provided in sections 6419a and 6440, the jurisdiction of the court of claims, as conferred upon it by this chapter, shall be exclusive. The state administrative board is hereby vested with discretionary authority upon the advice of the attorney general, to hear, consider, determine, and allow any claim against the state in an amount less than $1,000.00. Any claim so allowed by the the state administrative board shall be paid in the same manner as judgments are paid under section 6458 upon certification of the allowed claim the secretary of the state administrative board to the clerk of the court of claims. The court has power and jurisdiction:

(a) To hear and determine all claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state and any of its departments, commissions, boards, institutions, arms, or agencies.

(b) To hear and determine any claims or demands, liquidated or unliquidated, ex contractu or ex delicto, which may be pleaded by way of counterclaim on the part of the state or any department, commisision, board, institution, arm, or agency of the state against any claimant who may bring an action in the court of claims. Any claim of the state or of any department, commission, board, institution, arm, or agency of the state may be pleaded by way of courterclaim in any action brought against the state,

or any other department, commission, board, institution, arm, or agency of the state.

(2) **Judgment; counterclaims; process.** The judgment entered by the court of claims upon any such claim, either against or in favor of the state or any department, commission, board, institution, arm, or agency of the state, upon becoming final shall be res adjudicata of that claim. Upon the trial of any cause in which any demand is made by the state of any department, commission, board, institution, arm, or agency of the state against the claimant either by way of setoff, recoupment, or cross declaration, the court shall hear and determine each claim or demand, and if the court finds a balance due from the claimant to the state, the court shall render judgment in favor of the state for the balance. Writs of execution or ganrishment may issue upon the judgment of the same as from the circuit court of this state. The judgment entered by the court of claims upon any claim, either for or against the claimant, shall be final unless appealed from as provided in the chapter

(3) **Jurisdiction, workers; compensation, peace officers.** The court of claims shall not have jurisdiction of any claim for compensation under the provisions of either of the following;

(a) The worker's disability compensation act of 1969, Act No. 317....

(b) Act no. 329 fo the Public Acts of 1937.....

(4) **Jurisdiction, circuit courts, sales tax, declaratory or equitable relief, other statuory claims, review of unemployment claims.** This chapter shall not deprive the circuit court of this state of jurisdiction over actions brought by the taxpayer under the general sales tax act...or proceedings for declaratory or equitable relief, or any other actions against state agencies based upon the statutes of this state in such case made and provided, which expressly confer jurisdiction thereof upon the circuit court, or proceedings to review findings as provided in the Michigan employment security act...,or any other similar proceedings expressly authorized by the statutes of this state in such case made and provided.

600.6422 Practice and procedure

Practice and procedure in the court of claims shall be in accordance with the statutes and court rules prescribing the practice in the courts of this state, except as herein otherwise provided. The supreme court shall have power to make special rules for said court.

600.6425 Depositions

The statutes and rules governing the taking of depositions in suits in the circuit courts of this state shall govern in the court of claims, except that it is not sufficient that the witness resides more than 50 miles form the place of holding court to enable the deposition to be used for any purpose.

600.6434 Pleadings, service, copies

(2) The complaint shall be verified. The pleadings of the state need not be verified.

600.6437 Judgment on stipulated facts

The court may order entry of judgment against the state or any of its departments, commissions, boards, institutions, arms, or agencies based upon facts as stipulated by counsel after taking such proofs in support thereof as may be necessary to satisfy the court as to the accuracy of such facts and upon being satisfied that such judgment is in accordance with applicable law.

600.6443 Trial by court without jury; new trial. The case shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case in of the circuit courts of this state, in a case at law without a jury.

600.6449 Costs, security for costs on appeal

(1) If the state shall put in issue the right of claimant to recover, the court may allow costs to the prevailing party from the time of the joining of the issue. The costs, however, shall include only witness fees and officers' fees for service of subpoenas actually paid, and attorney fees in the same amount as is provided for trial of cases in the circuit court.

(2) Costs upon an appeal to the court of appeals shall be allowed in like amounts and for the same

items as in a case appealed to the court of appeals form the cirucit court.

(3) In the case of costs allowed against a claimant, judgment shall be entered thereon and writs of execution or garnishment may issue as from the circuit court.

(4) In the event of an appeal to the court of appeals by a claimant the judge may, upon motion by the atttorney general, require security for costs from the claimant in connection with such an appeal.

600.6470 Fraud in connection with claim; forfeiture. Any person who corruptly practices, or attempts to practice, any fraud against the state of Michigan, in the proof, statement, establishment, or allowance of any claim or of any part of a claim, against the state, shall thereby forfeit the same to the state and it shall be the duty of the court of claims in such cases to find specifically that such fraud was practiced, or attempted to be practiced, and thereupon to give judgment that such claim is forefeited to the state and that the claimant be forever barrred from prosecuting the same.

CLERK PRACTICES BENEFITING JUDGES

600.8371. Civil action; filing fees; court filing fee report.

(1) Before a civil action is commenced in the district court, the moving party shall pay to the clerk the sum of $32.00 if the amount in controversy

exceeds $3,000.000, the sum of $22.00 if the amount in controversy exceeds $600.00 but does not exceed $3,000.000, or the sum of $12.00 if the amount in controversy does not exceed $600.00.

(2) Of each filing fee collected within the month, at the end of each month, the clerk shall transmit, $2.00 to the state treasurer to be credited to the community dispute resolution fund created by the commuity dispute resolution act, Act No. 260 of the Public Acts of 1988, being sections 691.1551 to 691.1564 of the Michigan Compiled Laws, 45% of the remaining filing fee to the executive secretary of the Michigan judges retirement system created by the judge retirement act of 1992, [****] and the balance of each filing fee to the treasurer of the district control unit in which the action was commenced.

(3) The judge may order payment of any statutory fee waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

(4) Neither this state nor a political subdivision fo this state shall be required to pay a filing fee in a civil infraction action.

(5) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of $3,000.00 as provided in subsection (1).

(6) After January 1, 1996, the filing fee shall be $30.00 if the amount in controversy exceeds $3,000.00, $20.00 if the amount in controversy

exceeds $600.00, and $10.00 if the amount does not exceed $600.00 and the state treasurer shall not credit $2.00 to the community dispute resolution fund created by Act No. 260 of tthe Public Acts of 1988.

(7) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992 at the same time the clerk of the district court transmits the portion of the fees collected under this section to the executive secretary.

[**** Similarly prior to the 1992 alterations of such retirement system.]

600.8381 Costs upon conviction and guilty pleas other than for parking violation; asessment, dispositon; court filing fee report

(1) When fines and costs are assessed by a magistrate, a traffic bureau, or a judge of the district court, not less than $5.00 shall be assesed as costs and collected for each conviction or civil infraction determination and each guilty plea or civil infraction admission except for parking violation. Of the cost assessed and collected for each conviction or civil infraction determination and each guilty plea or civil infraction admission, $5.00 shall be paid to the clerk of the district court. The clerk of the district court, on or before the fifteenth day of the month in which costs are collected under this section, shall transmit 6% of the costs collected to the state treasurer for

deposit in the legislative retirement fund created by the Michigan legislative retirement system act, Act No. 261 of Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Michigan Compiled Laws; 9% of the costs collected to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, [*****] and the balance of the costs collected to the state treasurer for deposit in the general fund.

(2) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, [*****] at the same time the clerk of the district court transmits the portion of the costs collected under this section to the executive secretary.

[***** Similarly prior to the 1992 alterations of such retirement system.]

CONSPIRACY - MONOPOLY & RESTRAINTS

750.151 Conspiracy; Definition, penalty

Sec. 151. DEFINITION AND PUNISHMENT-All contracts, agreements, understandings and combinations made, entered into, or knowingly assented to, by and between any parties capable of making a contract or agreement which would limit, control, or in any manner to restrict or regulate the amount of production or the quanity of any article or com-

modity to be raised, or produced by mining, manufacture, agriculture or any other branch of business or labor, or to enhance control or regulate the market price thereof, or in any manner to prevent or restrict free competition in the production or sale of any such article or commodity, shall be illegal and void, and every such contract, agreement, understanding and combination shall constitute a criminal conspiracy. And every person who, for himself personally, or as a member, or in the name of a partnership, or as a member, agent or officer of a corporation, or any association for business purposes of any kind, who shall enter into or knowingly consent to any such void and illegal contract, agreement, understanding or combination, shall be deemed a party to such conspiracy.

All parties so offending shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months or by a fine of not more than 250 dollars. And the prosecution for offenses under this section may be instituted and the trial had in any county where any of the conspirators become parties to such conspiracy, or in which any one of the conspirators shall reside: Provided, however, That this section shall in no manner invalidate or affect contracts for what is known and recognized as common law and in equity as contracts for the "good will of a trade or business"; but all such contracts shall be left to stand upon the same terms and wihtin the same limitations recognized at common law and in equity.

PERJURY

750.422 Perjury committed in courts

PERJURY COMMITTED IN COURTS-Any person who, being lawfully required to depose the truth in any proceeding in a court of justice, shall commit perjury shall be guilty of a felony, punishable, if such perjury was committed on the trial of an indictment for a capital crime, by imprisonment in the state prison for life, or any term of years, and if committed in any other case, by imprisonment in the state prison for not more than 15 years.

750.423 Definition

DEFINITION-Any person authorized by any statute of this state to take an oath, or any person of whom an oath shall be required by law, who shall wilfully swear falsely, in regard to any matter or thing respecting which is authorized or required, shall be guilty of perjury, a felony, punishable by imprisonment in the state prison not more than 15 years.

750.425 Inciting or procuring one to commit perjury

INCITING OR PROCUIRNG ONE TO COMMIT PERJURY -Any person who shall endeavor to incite or procure any person to commit the crime of perjury, though no perjury be committed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

APPENDIX G

MICHIGAN COURT RULES

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RULE 2.002 WAIVER OR SUSPENSION OF FEES AND COSTS FOR INDIGENT PERSONS

(A) Persons Eligible. Only a natural person is eligible for the waiver or suspenion of fees and costs under this rule.

(B) Execution of Affidavits. An affidavit required by this rule may be signed either

(1) by the party in whose behalf the affidavit is made; or

(D) Other Indigent Persons. If a party shows by ex parte affidavit or otherwise that he or she is unable because of indigency to pay fees and costs required by law or court rule, the court shall order those fees and costs either waived or suspended until the conclusion of the litigation.

RULE 2.107 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(A) Service; When Required.

(1) Unless otherwise stated in this rule, every party who has filed a pleading, an appearance, or a motion must be served with a copy of every paper later filed in the action. A non party who has filed a motion or appeared in response to a motion need only be served with papers that relate to that motion.

(C) Manner of Service. Service of a copy of a paper on an attorney must be made by delivery or by mailing to the attorney at his or her last known bussiness address or, if the atttorney does not have a business address, then to his or her last known residence address. Service on a party must be made

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by delivery or by mailng to the party at the address stated in the party's pleadings.

(1) *Delivery to Attorney.* Delivery of a copy to an attorney within this rule means

(a) handing it to the attorney personally;

(b) leaving it at the attorney's office with the person in charge or, if no one is in charge or present, by leaving it in a conspicuous place; or

(c) if the office is closed or the attorney has no office, by leaiving it at the atttorney's usual residnce with some person of suitable age and discretion residing there.

(2) *Delivery to a party.* Delivery of a copy to a party within this rule means

(a) handing it to the party personally; or

(b) leaving it at the party's ususal residnece with some person of suitable age and discretion residing there.

(3) *Mailing.* Mailing a copy under this rule means enclosing it in a sealed envelope with first class postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States mail. Service by mail is complete at the time of mailing.

(G) Filing With Court Defined. The filing of pleadings and other papers with the court as required by these rules must be with the court clerk, except that the judge may permit papers to be filed with him or her in which event the judge shall note the filing date on the papers and forthwith transmit them to the office of the court clerk.

ABLE COPY

RULE 2.109 SECURITY FOR COSTS

(A) Motion. *On motion of a party against whom a* claim has been asserted in a civil action, if it appears reasonable and proper, the court may order the opposing party to file with the court clerk a bond with surety as required by the court in an amount sufficient to cover all costs and other recoverable expenses that may be awarded by the trial court, or if the claiming party appeals, by the trial and appellate courts. The court shall determine the amount in its discretion. MCR 3.604(E) and (F) govern objections to the surety.

(B) Exceptions. Subrule (A) does not apply in the following circumstances;

(1) The court may allow a party to proceed without furnishing security for costs if the party's pleading state a legitimate claim and the party shows by affidavit that he or she is financially unable to furnish a security bond.

RULE 2.113 FORM OF PLEADINGS AND OTHER PAPERS.

(C) Captions.

(1) The first part of every pleading must contain a caption stating

(a) the name of the court;

RULE 2.114 SIGNATURES OF ATTORNEYS AND PARTIES; VERIFICATION; EFFECT; SANCTION

(E) Sanctions for Violation. If a pleading is signed in violation of this rule, the court, on the

motion of a party or on its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees.

RULE 2.116 SUMMARY DISPOSITION

(A) Judgment on Stipulated Facts.

(1) The parties to a civil action may submit an agreed-upon stipulation of facts to the court.

(2) If the parties have stipulated to facts sufficient to enable the court to render judgment in the action, the court shall do so.

(C) Grounds. The motion may be based on one or more of these grounds, and must specify the grounds on which it is based:

(8) The opposing party has failed to state a claim on which relief can be granted.

(10) Except as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entittled to judgment or paritial judgment as a matter of law.

(G) Affidavits; Hearing.

(3) Affidavits, depositions, admissions, or other documentary evidence in support of the grounds asserted in the motion are required

(a) when the ground asserted do not appear on the face of the pleadings, or

(b) when judgment is sought based no subrule (C)(10).

(4) A motion under subrule (C)(10) must specifically identify the issues as to which the moving party believes there is no genuine issue as to any material fact. When a motion under subrule (G)(10) is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his or her pleading, but must, by affidavits or as otherwise provided in this rule, set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, judgment, if appropriate, shall be entered against him or her.

(5) The affidavits, together with the pleadings, depositions, admissions, and documentary evidence then filed in the aciton or submitted by the parties, must be considered by the court when the motion is based on subrule (C)(1)-(7) or (10). Only the pleadings may be considered when the motion is based on subrule (C)(8) or (9).

(I) Diposition by Court; Immediate Trial.

(5) If the grounds asserted are based on subrule (C)(8), (9), or (10), the court shall give the parties an opportunity to amend their pleadings as provided by MCR 2.118, unless the evidence then before the court shows that amendment would not be justified.

RULE 2.119 MOTION PRACTICE

(A) Form of Motions.

(1) An application to the court for an order in a pending action must be by motion. Unless made during a hearing or trial, a motion must

(a) be in writing,

(b) state with particularity the grounds and authority on which it is based,

(c) state the relief or order sought, and

(d) be signed by the party or attorney as provided in MCR 2.114.

(C) Time for Service and Filing of Motions and Responses.

(1) Unless a different period is set by these rules or by the court for good cause, a written motion (other than one that may be heard ex parte), notice of the hearing on the motion, and any supporting brief or affidavits must be served as follows;

(a) at least 9 days before the time set for the hearing, if served by mail, or

(b) at least 7 days before the time set for the hearing, if served by delivery under MCR 2.107(C)(1) or (2).

(2) Unless a different period is set by these rules or by the court for good cause, any response to a motion (including a brief or affidavits) required or permited by these rules must be served as follows:

(a) at least 5 days before the hearing, if served by mail, or

(b) at least 3 days before the hearing, if served by delivery under MCR 2.107(C)(1) or (2).

(D) Uncontested Orders.

(1) Before filing a motion, a party may serve on the opposite party a copy of a proposed order and a request to stipulate to the court's entry of the proposed order.

(2) On receipt of a request to stipulate, a party may

(a) stipulate to the entry of the order by signing the following statement at the end of the proposed order: "I stipulate to the entry of the above order"; or

(b) waive notice and entry of the order by signing the following statement at the end of the proposed order: "Notice and hearing on entry of the above order is waived."

A proposed order is deemed rejected unless it is stipulated to or notice and hearing are waived within 7 days after it is served.

(E) Contested Motions.

(1) Contested motions should be noticed for hearing at the time designated by the court for the hearing of motions. A motion will be heard on the day for which it is noticed, unless the court otherwise directs. If a motion cannot be heard on the day it is noticed, the court may schedule a new hearing date or the moving party may renotice the hearing.

RULE 2.222 CHANGE OF VENUE; VENUE PROPER

(A) Grounds. The court may order a change of venue of a civil action, or of an appeal from an order or decision of a state board, commission, or agency authorized to promulgate rules or regulations, for the convenience of parties and witnesses or when an impartial trial cannot be had where the action is pending. In the case of appellate review of adminstrative proceedings, venue may also be changed for the convenience of the attorneys.

(B) Motion Required. If the venue of the action is proper, the court may not change the venue on its own initiative, but may do so only on motion of a party.

RULE 2.226 CHANGE OF VENUE: Orders

The court ordering a change of venue shall enter all necessary orders pertaining to the certification and transfer of the action to the court to which the action is transfered.

RULE 2.301 COMPLETION OF DISCOVERY

(A) Discovery must be completed 1 year after an answer has been filed unless the court sets another date by order

(1) on it own initiative,

(2) on motion of a party, or

(3) at a pretrial conference.

RULE 2.302 GENERAL RULES GOVERNING DISCOVERY

(C) Protective Orders. On motion of a party or by the person from whom discovery is sought, and on reasonable notice and for good cause shown, the court in which the action is pending may issue any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following orders:

(1) that the discovery not be had;

(2) that the discovery may be had only on spe-

cified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) that the discovery be conducted with no one present except persons designated by the court;

(6) that a deposition, after being sealed, be opened only by order of the court;

(7) that a deposition shall be taken only for the purpose of discovery and shall not be admissible in evidence except for the purpose of impeachment;

(8) that a trade secret or other confidential research, development, or commercial innformation not be disclosed or be disclosed only in a designated way;

(9) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on terms and conditions as are just, order that a party or person provide or permit discovery. The provisions of MCR 2.313(A)(5) apply to the award of expenses incurred in relation to the motion.

RULE 2.306 DEPOSITONS ON ORAL EXAMINATION

(A) When Depositions May Be Taken.

(1) After commencement of the action, a party may take the testimony of a person, including a party, by deposition on oral examination. Leave of the court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition before the defendant has had a reasonable time to obtain an attorney. A reasonable time is deemed to have elasped if:

(a) the defendant has filed an answer;

(b) the defendant's attorney has filed an appearance;

(c) the defendant has served notice of the taking of a deposition or has taken other action seeking discovery;

(d) the defendant has filed a motion under MCR 2116; or

(e) 28 days have expired after service of the summons and complaint on a defendant or after service made under MCR 2.106

(F) Certification and Transcription: Filing; Copies.

(1) If transcription is requested by a party, the person conducting the examination or the stenographer must certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. A deposition transcribed and certified in accordance with subrule (F) need not be submitted to the witness for examination and signature.

(2) On payment of reasonable charges, the person conducting the examination shall furnish a copy of the deposition to a party or to the deponent. Where transcription is requested by a party other than the party requesting the deposition, the court may order, or the parties may stipulate, that the expense of transcription or a portion of it be paid by the party making the request.

(G) Failure to Attend or to Serve Subpoena; Expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed with the deposition and another party attends in person or by attorney pursuant to notice, the court may order the party giving the notice to pay to the other party the reasonable expenses incurred in attending, including reasonable attorney fees.

RULE 2.309 INTERROGATORIES TO PARTIES

(B) Answers and Objections.

(1) Each interrogatory must be answered spearately and fully in writing under oath. The answers must include such information as is available to the party served or that the party could obtain from his or her employees, agents, representatives, sureties, or indemnitors. If the answering party objects to an interrogatory, the reasons for the objection must be stated in lieu of an answer.

(C) Motion to Compel Answers. The party submitting the interrogatories may move for an order

under MCR 2.313(A) with respect to an objection to or other failure to answer an interrogatory. If the motion is based on the failure to serve answers, proof of service of the interrogatories must be filed with the motion.

RULE 2.310 PRODUCTION OF DOCUMENTS AND THINGS; ENTRY ON LAND FOR INSPECTION AND OTHER PURPOSES

(A) Scope. A party may serve on another person a request

(1) to produce and permit the party making the request, or someone acting on that party's behalf,

(a) to inspect and copy designated documents or

(b) to inspect and copy, test, or sample tangible things which constitute or contain matters within the scope of MCR 2.302(B) and which are in the possession, custody, or control of the person on whom the request is served; or [re: entry upon land]

For the purpose of this rule, "documents" include writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form.

(B) Request to Party.

(1) The request may, without leave of court, be served on the plaintiff after commencement of the action and on the defendant with or after the service

of the summons and complaint on that defendant. The request must list the items to be inspected, either by individual item or by category, and describe each item and category with reasonable particularity. The request must specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(2) The party on whom the request is served must serve a written response within 28 days after service of the request, except that a defendant may serve a response within 42 days after being served with the summons and complaint. The court may allow a longer or shorter time. With respect to each item or category, the response must state that the inspection and related activities will be permitted as requested or that the request is objected to, in which event the reasons for the objection must be sated. If objection is made to part of an item or category, the part must be specified.

RULE 2.313 FAILURE TO PROVIDE OR TO PERMIT DISCOVERY; SANCTIONS

(A) Motion for Order Compelling Discovery. A party, on reasonable notice to other parties and all persons affected, may apply for an order compelling discovery as follows;

(2) *Motion.* If

(c) a party fails to answer an interrogatory submitted under MCR 2.309, or

(4) *Evasive or Incomplete Answer.* For purposes of this subrule an evasive or incomplete answer is to be treated as a failure to answer.

(5) *Award of Expenses of Motion.*

(a) If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct, or both, to pay the moving party the reasonable expenses incurred in obtaining the order, including attorney fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances made an award of expsense unjust.

(B) Failure To Comply With Order.

(2) *Sanctions by Court in Which Action Is Pending.* If a party or an officer, director, or managing agent of a party, or a person designated under MCR 2.306(B)(5) or 2.307(A)(1) to testify on behalf of a party, fails to obey an order to provide or permit discovery, including an order entered under subrule (A) of this rule or under MCR 2.311, the court in which the action is pending may order such sanctions as are just, including, but not limited to the following:

(c) an order striking pleadings or parts of pleadings, staying further proceedings until the order is obeyed, dismissing the action or proceeding or a part of it, or rendering a judgment by default against the disobedient party;

In lieu of or in addition to the foregoing orders, the court shall require the party failing to obey the order or the attorney advising the party, or both to pay the reasonable expenses, including attorney

fees, caused by the failure, unless the court finds that the failure was substaintially justified or that other circumstances make an award of expenses unjust.

(C) Expenses on Failure to Admit. If a party denies the genuineness of a document, or the truth of a matter as requested under MCR 2.312, and if the party requesting the admission later proves the genuineness of the document or the truth of the matter, the requesting party may move for an order requiring the other paty to pay the expenses incurred in making that proof, including attorney fees. The court shall enter the order unless it finds that

(1) the request was held objectionable pursuant to MCR 2.132,

(2) the admission sought was of no substantial importance,

(3) the party failing to admit had reasonable ground to believe that he or she might prevail on the matter, or

(4) there was other good reason for the failure to admit.

(D) Failure of Party to Attend at Own Deposition, to Serve Answers to Interrogatories, or to Repsond to Request for Inspection.

(1) If a party; an officer, director, or a managing agent of a party; or a person designated under MCR 2.306(B)(5) or 2.307(A)(1) to testify on behalf of a party fails

(a) to appear before the person who is to take his or her deposition, after being served with a proper notice;

(b) to serve answers or objections to interrogatories submitted under MCR 2.309, after proper service of the interrogatories; or

(c) to serve a written response to a request for inspection submitted under MCR 2.1310, after proper service of the request,

on a motion, the court in which the action is pending may order such sanctions as are just. Among others, it may take an action authorized under subrule (B)(2)(a), (b), and (c).

(2) In lieu of or in addition to an order, the court shall require the party failing to act or the attorney advising the party, or both, to pay the reasonable expenses, including attorney fees, caused by the failure, unless the court finds that the failure was substaintially justified or that other circumstances make an award of expenses unjust.

(3) A failure to act described in this subrule may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has moved for a protective order as provided by MCR 2.302(C).

RULE 2.314 DISCOVERY OF MEDICAL INFORMATION CONCERNING PARTY

(D) Release of Medical Information by Custodian.

(1) A physician, hospital, or other custodian of medical information (referred to in this rule as the

"custodian") shall comply with a properly authorized request for the medical information within 28 days after the receipt of the request, or if at the time the request is made the patient is hospitalized for the mental or physical condition for which the medical information is sought, with 28 dyas after the patient's discharge or release. The court may extend or shorten these time limits on motion for good cause.

(6) If a custodian does not respond within the time permitted by subrule (D)(1) to a party's authorized request for medical information, a subpoena may be issued under MCR 2.305(A)(2), directing that the custodian present the information for examination and copying at the time and place stated in the subpoena.

RULE 2.504 DISMISSAL OF ACTIONS

(B) Involuntary Dismissal; Effect.

(1) If a plaintiff fails to comply with these rules or a court order, a defendant may move for dismissal of an action or a claim against that defendant.

(3) Unless the court otherwise specifies in its order for dismissal, a dismissal under this subrule or a dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction or for failure to join a party under MCR 2.205, operates as an adjudication on the merits.

RULE 2.603
DEFAULT AND DEFAULT JUDGMENT
(A) Entry; Notice; Effect.

(1) If a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, and that fact is made to appear by affidavit or otherwise, the clerk must enter the default of that party.

(2) Notice of the entry must be sent to all parties who have appeared and to the defaulted party. If the defaulted party has not appeared, the notice to the defaulted party may be served by personal service, by ordinary first-class mail at his or her last known address or the place of service, or as otherwise directed by the court.

(a) In the district court, the court clerk shall send the notice.

(b) In all other courts, the notice must be sent by the party who sought entry of the default. Proof of service and a copy of the notice must be filed with the court.

(3) Once the default of a party has been entered, that party may not proceed with the action until the default has been set aside the court in accordance with subrule (D) or MCR 2.612.

(B) Default Judgment

(1) *Notice of Request for Judgment*

(a) A party seeking a default judgment must give notice of the request for judgment to the defaulted party

(i) if the party against whom the judg-

ment is sought has appeared in the action;

(2) *Default Judgment Entered by Clerk.* On request of the plaintiff supported by an affidavit as to the amount due, the clerk may sign and enter judgment for that amount and costs against the defendant, if

(a) the plaintiff's claim against a defendant is for a sum certain or for a sum that can by computation be made certain,

(b) the default was entered because the defendant failed to appear, and

(c) the defaulted defendant is not an infant or incompetent person.

(D) Setting Aside Default.

(1) A motion to set aside a default or a default judgment, except when grounded on lack of jurisdiction over the defendant, shall be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed.

RULE 2.612 RELIEF FROM JUDGMENT OR ORDER

(A) Clerical Mistakes.

(1) Clerical mistakes in judgments, orders, or other parts of the record and errors arising from oversight or omission may be corrected by the court at any time on its own initiative or on motion of a party and after notice, if the court orders it.

(2) If a claim of appeal is filed or an appellate court grants leave to appeal, the trial court may correct errors as provided in MCR 7.208(A) and (B).

(B) Defendant Not Personally Notified.

A defendant over whom personal jurisdiction was

necessary and acquired, but who did not in fact have knowledge of the pendency of the action, may enter an appearance wihin 1 year after final judgment, and if the defendant shows reasons justifying relief from the judgment and innocent third persons will not be prejudiced, the court may relieve the defendant from the judgment, order, or proceedings for which personal jurisdiction was necessary, on payment of costs or on conditions the court deems just.

(C) Ground for Relief From Judgment.

(1) On motion and on just terms, the court may relieve a party or the legal representative of a party from a final judgment, order, or proceeding on the following grounds:

(a) Mistake, inadvertence, surprise, or excusable neglect

(b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under MCR 2.611(B).

(c) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.

(d) The judgment is void.

(e) The judgment has been satisfied, release, or discharged; a prior judgment on which it is based has been reversed or otherwise vacated; or it is no longer equitable that the judgment should have prospective application.

(f) Any other reason justifying relief from the operation of the judgment.

(2) The motion must be made within a reasonable time, and, for the grounds stated in subrules

(C)(1)(a), (b), and (c), within one year after the judgment, order, or proceeding was entered or taken. A motion under this subrule does not affect the finality of a judgment or suspend its operation.

(3) This subrule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding; to grant relief to a defendant not actually personally notified as provided in subrule (B); or to set aside a judgment for fraud on the court.

RULE 2.625 TAXATION OF COSTS

(A) Right to Costs. Costs will be allowed the prevailing party in an action, unless prohibited by statute or by these rules or unless the court directs otherwise, for reasons stated in writing and filed in the action.

(D) Costs When Default or Default Judgment Set Aside. The following provisions apply to an order setting aside a default or a default judgment:

(1) If personal jurisdiction was acquired over the defendant, the order must be conditioned on the defendant's paying or securing payment to the party seeking affirmative relief the taxable costs incurred in procuring the default judgment and acting in reliance on it;

(I) Special Costs or Damages.

(1) In an action in which the plaintiff's claim is reduced by a counterclaim, or another facts appears that would entitle either party to costs, to multiple costs, or to special damages for delay or otherwise, the court shall, on the application of either party,

have that fact entered in the records of the court. A taxing officer may receive no evidence of the matter other than a certified copy of the court records or the certificate of the judge who entered the judgment.

RULE 7.216 MISCELLANEOUS RELIEF
(C) VEXATIOUS PROCEEDNGS.

(1) The Court of Appeals may, on its own initiative or the motion of any party, assess actual and punitive damages or take other disciplinary action when it determines that an appeal or any of the proceedings in an appeal was vexatious because

(a) the appeal was taken for purposes of hinderance or delay or without any reasonable basis for belief that there a was a meritorious issue to be determined on appeal; or

(b) a pleading, motion, argument, brief, documents, or record filed in the case or any testimony presented in the case was grossly lacking in the requirements of propriety, violated court rules, or grossly disregarded the requirements of a fair presentation of the issues to the court.

(2) Damages may not exceed actual damages and expenses incurred by the opposing party because of the vexatious appeal or proceedings, including reasonable attorney fees, and punitive damages in an added amount not exceedng the actual damages. The court may remand the case to the trial court for a determination of actual damges.

RULE 7.219 TAXATION OF COSTS; FEES

(A) Right to Costs. Except as the Court of Appeals otherwise directs, the prevailing party in a civil case is entitled to costs.

(I) Violation of Rules. The Court of Appeals may impose costs on a party or an attorney when in its discretion they should be assessed for violation of these rules.

RULE 7.316 MISCELLANEOUS RELIEF OBTAINABLE IN SUPREME COURT

(D) Vexatious Proceedings.

(1) The Court may, on its own initiative or the motion of any party filed before a case is placed on a session calendar, dismiss an appeal, assess actual and punitve damages, or take other disciplinary action when it determines that an appeal or any of the proceedings in an appeal was vexatious because

(b) a pleading, motion, argument, brief, document, or record filed in the case or any testimony presented it in the case was grossly lacking in the requirements of propriety, violated court rules, or grossly disregarded the requirements of a fair presentation of the issues to the Court.

(2) Damages may not exceed actural damages and expenses incurred by the opposing party because of the vexatious appeal or proceedings, including reasonable attorney fees, and punitive damages in an added amount not exceeding the actual damages. The Court may remand the case to the trial court or tribunal for a deterimination of actual damges.

RULE 8.111 ASSIGNMENT OF CASES

(B) Assignment. All cases must be assigned by lot, unless a different system has been adopted by local court administrative order under the provisions of subrule 8.112. Assignment will occur at the time the case is filed or before a contested hearing or uncontested dispositional hearing in the case, as the chief judge directs. Civil actions must be assigned within appropriate categories determined by the chief judge. The chief judge may receive fewer assignments in order to perform the duties of chief judge.

(C) Reassignment. If a judge is disqualified or for other good cause cannot undertake an assigned case, the chief judge may reassign it to another judge by a written order stating the reason. To the extent feasible, the alternative judge should be selected by lot. The chief judge shall file the order with the trial court clerk and have the clerk notify the attorney of record. The chief judge may also designate a judge to act temporarily until a case is reassigned or during a temporary absence of a judge to whom a case has been assigned.

[1] Petitioner has a prior record found under Mr. Herb Levitt of the State Court Administrative Office, Detroit and elsewhere of protest of the pecuniary interest of judges by such statutory 45% interest (MCL 600.2529 & 600.8371), and in judicial assessments of court costs by the statutory 9% interest (MCL 600.8381).

[2] Only one Circuit Court Judge, Nicholas Lambros, located in Ste. St. Marie, a considerable distance from Ann Arbor, was not a participant in such retirement funding scheme.

[3] Such temporary appointments are also made to the Office of Judge of the Court of Appeals. This goes on continuous basis such that every petitioner suffers the participation of a judge whom the electors have been denied the right of voting on higher office responsibilities. Thus absent the exercise of the Executive Branch power of appointment for filling vacancies of Office the Michigan Supreme Court under its own "administrative" authorization increases the size of the Court of Appeals by 1/3 on a continuous basis, and also makes appointments to the Offices of the Attorney Grievance Commission (AGC).

[4] This is another of the several highly irregular Orders having no seals, no signatures, etc. referenced in Question One. Notably its substance contains a DENIAL of a motion NOT made to strike the detetective Appellees' Brief, when they did NOT filed any briefs or appearances in the appellate courts.

[5] For judicial notice, Petitioner's Briefs at the Court of Appeals and Michigan Supreme Court as well as her "authentication motion," cite the investigation of the Attorney Grievance Commission (AGC) of Repsondent A. Robert Zaff relative to the halting of his investigation and suspected forgery of a signature in a 5 million dollar New York real estate deal, the unprecedented destruction of AGC complaint evidence concurrent with the alleged suicide of a protesting AGC official, and the claims of not being in possession of crucial evidence, then reversing himself by his attorney, former Assistant US District Attorney James K. Robinson, who during the pendancy of Petitioner's cause of action, became president of Respondent Bar

Association with new rules preventing his further representation of Zeff. Attorney Wallace Riley, former President of the American Bar Association, Director of the Michigan Supreme Court Historical Society and spouse of Michigan Supreme Court former Chief Justice Justice Dorthy Comstock Riely, became Zeff's new defender. The public record cited further noted the re-opening of the investigation of Zeff relative to the **bribery/gifting** of a **Court of Appeals Judge** with a $1,200.00 computer, also reportedly suicided.

[6] State and federal documentation of poverty related to court fees and costs, etc. is found in numerous places in the instant and related File Records such as 3-2-90, 3-12-90 & Transcript entry at 12-6-90) suggestion of a false poverty claim has ever been articulated, apart from the nortorious Talbot Court and such lack any articulatable supporting facts, and are at odds with the preponderance of the evidence related to the numerous state and federal findings of poverty.

[7] The 1 year period for completing discovery ended prior to Judge Talbot placement ofthe Surety Bond Order, and in light of Petitioner's statutory entitlment (1-26-90) to take Judgement by Default, and other nortorious conduct by Judge Tallbot, Petitioner filed an Emergency Complaint for superintending Control in the Court of Appeals, no. 114-597 (denied 2-18-90).

[xx] In the underlying personal injury case, Petitioner was a New Jersey resident when the law office Respondents were hired, and many of the witness, had the case gone to trial would have been interstate travellers. When Judge Deake allowed them to withdraw from the underlying case, it was upon the fraudulent basis that Petitioner had abandoned the case and they didn't know how to contact her (documented by detective defendants), when in fact they did know and she was awaiting their answer to her certified letter rquesting assistance. All of this transpired while she was awaiting placement in a east coast institution for the brain injured. While she was still out of state, they lied to potential replacement counsel to restrain the progress of her litigation, holding her legal file until the personal injury case had been dismissed with prejudice. Subsequently Georgia members of the bar undertook a $10,000.00 review determining it to be one of the worst legal malpractice cases in the country. Due to the nature of her injuries, audio recordings exist of Court Administrators informing her that "even if she won, they wouldn't let her win, etc. Numerous members of Respondent bar informed her that she could not sue the bar, and if she did so, it could only be for what the amount of the original case. No liability for legal torts was permissible.